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Federal referendums

Melbourne

[1913]

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AMENDMENT OF CONSTITUTION

FEDERAL REFERENDUMS

THE CASE FOR AND AGAINST

By Authority : ALBERT J. MULLETT, Acting Government Printer, Melbourne.

COMMONWEALTH OF AUSTRALIA.

Referendum (*Constitution Alteration*) *Act* 1906–1912.

REFERENDUMS

To be held on SATURDAY, the 31st day of MAY, 1913.

Pamphlet showing the Textual Alterations and Additions proposed to be made to the Constitution by the Proposed Laws, and containing The Argument IN FAVOUR OF Each Proposed Law, authorized by a Majority of the Members of both Houses of the Parliament who voted For the Proposed Law, and The Argument AGAINST Each Proposed Law, authorized by a Majority of the Members of both Houses of the Parliament who voted Against the Proposed Law.

R. C. OLDHAM,
Chief Electoral Officer for the Commonwealth.

MELBOURNE,
12th FEBRUARY, 1913.

C.1514.—A.

Statement in relation to the Proposed Laws.

The PROPOSED LAWS, which have been PASSED by an ABSOLUTE MAJORITY of both HOUSES OF THE PARLIAMENT, and which are SUBMITTED TO THE ELECTORS at these REFERENDUMS, are entitled as follows :—

1. "Constitution Alteration (TRADE AND COMMERCE) 1912."
2. "Constitution Alteration (CORPORATIONS) 1912."
3. "Constitution Alteration (INDUSTRIAL MATTERS) 1912."
4. "Constitution Alteration (RAILWAY DISPUTES) 1912."
5. "Constitution Alteration (TRUSTS) 1912."
6. "Constitution Alteration (NATIONALIZATION OF MONOPOLIES) 1912."

THE TEXT OF SECTION 51 OF THE CONSTITUTION and the TEXTUAL ALTERATIONS AND ADDITIONS proposed by the said proposed Laws to be made to the Constitution are as follow: (the words proposed to be omitted being printed in ERASED TYPE, and the words proposed to be inserted being printed in BLACK TYPE). The marginal note opposite each alteration or addition has reference to the proposed law by which that alteration or addition is proposed to be made.

Legislative powers of the Parliament.

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:—

No. 1.—TRADE AND COMMERCE.

(i.) Trade and commerce ~~with other countries, and among the States,~~ **but not including trade and commerce upon railways the property of a State except so far as it is trade and commerce with other countries or among the States :**

(ii.) Taxation; but so as not to discriminate between States or parts of States:
(iii.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:
(iv.) Borrowing money on the public credit of the Commonwealth:
(v.) Postal, telegraphic, telephonic, and other like services:
(vi.) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:
(vii.) Lighthouses, lightships, beacons, and buoys:
(viii.) Astronomical and meteorological observations:
(ix.) Quarantine:
(x.) Fisheries in Australian waters beyond territorial limits:
(xi.) Census and statistics:
(xii.) Currency, coinage, and legal tender:
(xiii.) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:
(xiv.) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:
(xv.) Weights and measures:
(xvi.) Bills of exchange and promissory notes:
(xvii.) Bankruptcy and insolvency:
(xviii.) Copyrights, patents of inventions and designs, and trade marks:
(xix.) Naturalization and aliens:

(xx.) ~~Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:~~

No. 2.—CORPORATIONS.

Corporations, including—

(a) the creation, dissolution, regulation, and control of corporations;

(b) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and

(c) foreign corporations, including their regulation and control:

(xxi.) Marriage:
(xxii.) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:
(xxiii.) Invalid and old-age pensions:
(xxiv.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the Courts of the States:
(xxv.) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States:
(xxvi.) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws:
(xxvii.) Immigration and emigration:
(xxviii.) The influx of criminals:
(xxix.) External affairs:
(xxx.) The relations of the Commonwealth with the islands of the Pacific:
(xxxi.) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:
(xxxii.) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:
(xxxiii.) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:
(xxxiv.) Railway construction and extension in any State with the consent of that State:

(xxxv.) ~~Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:~~

No. 3.—INDUSTRIAL MATTERS.

Labour, and employment, and unemployment, including—

(a) the terms and conditions of labour and employment in any trade, industry, occupation, or calling;

(b) the rights and obligations of employers and employees;

(c) strikes and lock-outs;

(d) the maintenance of industrial peace; and

(e) the settlement of industrial disputes:

(xxxv.A.) **Conciliation and arbitration for the prevention and settlement of industrial disputes in relation to employment in the railway service of a State:**

No. 4.—RAILWAY DISPUTES.

(xxxvi.) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:

(xxxvii.) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

(xxxviii.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

(xxxix.) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth:

(xl.) **Trusts, combinations, and monopolies in relation to the production, manufacture, or supply of goods, or the supply of services.**

No. 5.—TRUSTS.

51A.—(1.) **When each House of the Parliament, in the same session, has by Resolution, passed by an absolute majority of its members, declared that the industry or business of producing, manufacturing, or supplying any specified services, is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose on just terms any property used in connexion with the industry or business.**

No. 6—NATIONALIZATION OF MONOPOLIES.

(2.) **This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State.**

THE CASE FOR THE AMENDMENTS.

On the 31st May next the electors of the Commonwealth of Australia will be asked to vote on six proposals to amend the Constitution. They will also have to elect a new Parliament. The two things are quite distinct. **The Amendment of the Constitution is purely a People's question. It is necessary to extend the people's powers. When the people have these powers they can intrust them to whom they please.**

The proposed amendments differ in several respects from those submitted to the people in 1911, in which the proposals were grouped in two Bills. These are set forth separately, and the electors may vote for or against any one. We strongly recommend the electors to vote for all of them. In order that the people may understand the reason for our attitude we here set forth the position as it appears to us.

WHY WE FEDERATED.

The Commonwealth was established because the legislative powers of the State Parliaments had proved inadequate to protect the interests of the people. The electors should never lose sight of this fact. It is of fundamental importance.

THE CONSTITUTION.

The Federal Constitution is not a sacred thing. It is just an agreement made by the people of the different States in order to more effectively protect their interests, by enlarging their self-governing powers. **The provision for amendment was inserted so that as conditions changed the Constitution might be adapted to meet them.** The electors must bear this fact well in mind. **It is the key of the situation.**

WHY THE PROVISION FOR AMENDMENT WAS INSERTED.

THE WEAKEST FEDERATION IN THE WORLD.

There are several countries in which a Federal system of government exists. The United States of America, Canada, Germany, and Switzerland are instances. But, although they are all Federations, they differ

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from one another and from our own very considerably. In some the Federal Government is strong; in others it is weak. Canada, Germany, and Switzerland are instances of strong Federations. Canada has all the powers sought for in these Amendments. So have Germany and Switzerland. America and Australia are instances of weak Federal Government. Our Constitution is, as Mr. Irvine has pointed out, "one of the weakest in the world." Those who framed it took the United States Constitution as their model. It was a great mistake, and one which the Canadians living alongside the Americans did not make.

THE POWER OF AMENDMENT.

In one particular our Constitution does not follow the American. It can be more easily amended. This makes ours a living Constitution, capable of being adapted to suit the changing requirements of the people. The provision for amendment is a vital part of the Constitution. If it had not been included the people would not have federated.

Our Constitution was deliberately made much easier to amend than that of America in order to induce the people to accept it. To say, therefore, that those who desire to amend the Constitution are enemies of Federation is absurd and wrong. The real enemies of Federation are those who, seeing how it is hampered, will not wisely use the means provided for amendment. For the people will soon get disgusted with Federation if it does not serve their needs.

WHY THE CONSTITUTION WANTS AMENDING.

The Constitution is only twelve years old. But it already wants amending—and very badly. It was drafted on wrong lines, and its interpretation by the High Court has shown that the Commonwealth does not possess many powers with which the electors understood it was clothed. New conditions have arisen, and no means exist to deal with them. The Federal Parliament cannot deal with the most important problems that confront modern society. It cannot deal with Trusts, Combines, and Monopolies. It cannot protect the consumer from extortion, nor ensure to the worker a fair and reasonable wage for his labour. It cannot even make a general Company law or a comprehensive Navigation law. The States are quite unable to deal with these matters; the national Parliament is powerless. But the people must be protected, and in order to protect them the Constitution must be amended.

No. I.—TRADE AND COMMERCE.

PROPOSED AMENDMENT.

Section 51.—(i.) Trade and commerce ~~with other countries, and among the States,~~ but not including trade and commerce upon railways the property of a State except so far as it is trade and commerce with other countries or among the States:

The first amendment is known as the Trade and Commerce Amendment. It differs from the proposal presented to the people in the 1911 Referendum, for it does not include State Trade and Commerce on State Railways. This amendment will give the Parliament power to make laws in relation to Trade and Commerce, not only between the States and with Foreign Countries as at present, but over trade and commerce within the Commonwealth (except trade and commerce on railways the property of a State).

THE KEYSTONE OF THE COMMONWEALTH POWERS.

The amendment is vitally necessary. The Trade and Commerce power is the keystone of the powers of the Federal Parliament. The present limitation to Inter-State Trade and Commerce paralyzes the Parliament's action in almost every direction. Without this amendment effective legislation with respect to Trusts, Combines, and Monopolies will be—even if the others are carried—almost impossible.

The present division of the Trade and Commerce power between Federation and States is artificial, indefinite, illogical, and mischievous.

It is artificial because it does not correspond with any actual distinction in the world of affairs. Trade is trade. Whether it crosses a State boundary or not makes no difference in its character. There ought not to be one law for trade between Albury and Sydney and another for trade between Albury and Melbourne—or Albury and Wodonga.

It is **indefinite.** No one can tell what it means owing to a tangle of judicial decisions.

COMMERCE IS AN ORGANIC WHOLE.

It is illogical. No one knows where Inter-State commerce begins and where it ends, and under what circumstances it may be suspended on the journey.

As regards instruments of commerce—*e.g.*, ships, vehicles, documents, &c., which are partly concerned with one kind of commerce, partly with another—how far are they under one jurisdiction, how far under the other?

As regards persons engaged in commerce—*e.g.*, merchants, carriers, and employés concerned with both kinds of commerce—how far are they under one jurisdiction; how far under the other?

As to all these matters, in the United States there is a bewildering and ever-increasing tangle of judicial decisions; and every new volume of law reports brings up new problems and new attempts at solutions.

It is **mischievous.** The man who wants to obey the law doesn't know which law to obey; the man who doesn't want to obey the law is helped to dodge from one jurisdiction to another as it suits him.

ALL FEDERATIONS EXCEPT AMERICA HAVE THIS POWER.

The words are a slavish copy of words in the United States Constitution, which have not been followed in any other Federal Constitution than that of Australia.

Switzerland, Germany, Canada, all give the Federal Parliament power as to trade and commerce as a whole.

THE RESULTS OF DIVIDED CONTROL OF COMMERCE.

There were special reasons for inserting the limitation in the United States Constitution. The thirteen States had not risen to the idea of nationhood; they were jealous and afraid of the central government they were creating; and their chief object was to limit its powers to what was absolutely necessary at the moment. Owing to the difficulty of amending the Constitution, the Federal trade and commerce power has been in shackles ever since, and is hopelessly unable to cope with the manifold ingenuity of the great trusts.

As Mr. W. H. Irvine, M.P., has said: **"It is just as impossible in commerce to draw a line of demarcation based on local geographical conditions as it would be to commit to the care of one physician a man's body and to the care of another physician his limbs. Each is really part of one organic whole; and the result of the attempts has been, as I say, perfectly endless litigation and uncertainty."**

COMMERCE, THE ARTERIAL SYSTEM OF CIVILIZATION.

The fact is that commerce is as much an organic whole as Defence, the Post Office, or the Customs. You can no more effectively regulate the commerce of Australia by divided authority than you can effectively defend Australia in such a way. State control of commerce was well enough when commerce was mainly confined within a State; but is quite illogical under modern conditions, when commerce is on a Federal basis.

THE PART COMMERCE PLAYS IN OUR LIVES.

Consider for a moment what commerce is, and how completely it is intertwined about the daily life of civilized man. It enters into every avenue of human activity; it wraps itself about every great problem. The questions of Trusts and Combines, of the power of accumulated Money, of Industrial Unrest are all intimately associated with it.

It is impossible to deal with any of these problems unless the people have effective control over Trade and Commerce. It is clearly a national matter. The world is our market. We buy and sell there. The produce of each State finds a market, not only within its own boundaries, but in every other State of the Commonwealth. Commerce is a Federal matter, and State laws are quite inadequate to deal with it.

No. 2.—CORPORATIONS.

Section 51.—(xx.) ~~Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:~~

Corporations, including—

(a) the creation, dissolution, regulation, and control of corporations;

(b) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and

(c) foreign corporations, including their regulation and control:

PROPOSED AMENDMENT.

The proposed amendment seeks to give the Federal Parliament power to make laws for corporations—or companies, as they are commonly called. It will enable the Parliament to make laws for all private corporations other than those "formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members."

Corporations formed by any State, municipal or other public authority are specially exempted. The Parliament will **not** be able to make laws with respect to any such corporations. Under this power the Parliament could make a **general Company** law dealing with all kinds of registered companies—except those to which reference has just been made. **It could also make a law relating to Friendly Societies all over Australia.**

COMPANY AND FRIENDLY SOCIETIES' LAWS.

PITFALLS OF THE CONSTITUTION.

This amendment is very urgently needed. The present position of the Commonwealth Parliament in relation to the power to make laws with respect to Corporations is most anomalous. **It illustrates, too,** in a most striking way, how very necessary it is that every power given to the Parliament should be given in such a way as will enable it to be used. To do this, as we shall show, **it is not sufficient to use plain and definite language in the section giving the power; the whole Constitution must be looked at, and, if any other part modifies that power, that, too, must be amended.** The present difficulty with respect to Corporations arises almost entirely because different sections of the Constitution clash with one another. The Constitution as it stands gives the Parliament power in words—which certainly seem plain enough—"to make laws with respect to Foreign Corporations and Financial and Trading Corporations formed within the limits of the Commonwealth." Under this power apparently the Commonwealth can pass any law with respect to any Trading and Financial Companies in the Commonwealth, whether their business is confined within the limits of any one State or extends beyond it. When the Constitution was before the people in 1899, and for long afterwards, this was the general opinion. **Commercial men assumed this power to be amply sufficient to enable the Parliament to pass a general Company law. The Parliament itself had no doubt about it.** A Bill for this purpose was actually drafted when the decision of the High Court in the case of *Appleton* v. *Moorehead* brought the whole house of cards toppling down. We refer elsewhere to the matter, for the extraordinary fact can never be sufficiently emphasized that, notwithstanding the plain words of the Constitution give the Federal Parliament power to make laws with respect to Corporations, the High Court decided that the Federal Parliament had no such power. The detailed judgment of the Court is a matter for lawyers to haggle over. It is enough for plain citizens to know that if they want to give the Federal Parliament power to do anything at all in this or any other matter, it must be done in a way that will put a repetition of this decision out of the question. The proposed amendments, together with the Trade and Commerce amendments, will do that. But nothing less will. It is not costly litigation that the electors want, but effective legislation.

POWERS TO BE USED MUST COVER THE WHOLE SUBJECT-MATTER.

WHY THE POWER IS NEEDED.

As to the need for the power to make laws relating to Companies hardly any argument is necessary to show it. The necessity for a general Company law is urgent. The lack of it hampers the *bonâ fide* and reputable companies, and affords a convenient shelter for crooked dealers. **It is surely an anomalous and dangerous thing that companies should be beyond effective control by the law** when commerce has developed to such huge dimensions, when accumulated wealth has such mighty power, and when combines of wealthy men—usually operating as companies—largely control, direct, and own that wealth.

COMPANIES THE UNITS OF COMBINES.

Laws dealing with Trusts and Combines must prove quite ineffective unless there is power to deal with Companies. Trusts are largely formed by companies banding themselves together. The Shipping Combine and the Coal Vend are examples in point. We cannot deal effectively with Combines unless we are able to deal with their individual members, whether these are companies or ordinary persons. To order a Trust to dissolve, and to be unable to deal with the individuals or companies who formed it, is simply farcical. In the United States the Constitution limits the powers of the Federal Parliament in the same way as ours does here. **Quite recently the Standard Oil and Tobacco Trusts were solemnly dissolved by the Court. But the various companies forming the Trust made "a gentlemen's agreement" and went on in the same old way—pocketed millions as a result of the Court's penalty, and snapped their fingers at the Federal laws, which could not touch them at all.**

In one or two States of Australia there are fairly modern Company laws; in others they are hopelessly antiquated. A uniform Company law is badly needed to protect the community and to protect the investor. It is needed in the interests of Commerce, for under wise legislation trade would leap ahead as it has never done before.

No. 3.—INDUSTRIAL MATTERS.

Section 51.—(xxxv.) ~~Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:—~~

Labour, and employment, and unemployment, including—

PROPOSED AMENDMENT.

- **(a) the terms and conditions of labour and employment in any trade, industry, occupation, or calling;**
- **(b) the rights and obligations of employers and employees;**
- **(c) Strikes and lock-outs;**
- **(d) the maintenance of industrial peace; and**
- **(e) the settlement of industrial disputes:**

This amendment deals with matters of first importance to every citizen in the Commonwealth. The world is seething with industrial unrest. The old order of things, when the masses took what was given to them and bowed their heads humbly, is gone for ever. The people have opened their eyes. They demand what they have every right to get—a fair and reasonable wage for their labour. The year 1912 was remarkable for the fierce industrial struggles all over the world, and particularly in Britain. The causes for this industrial upheaval are numerous, and many of them deep seated; but high prices and low wages are the immediate dominant factors. Man must live; and when he feels himself helplessly squeezed in the jaws of the economic vice, and inadequately paid for his labour, his wages remaining the same when cost of living rises like a sky rocket, it is no wonder he kicks.

INDUSTRIAL UNREST A WORLD-WIDE PROBLEM.

THE CAUSES OF INDUSTRIAL UNREST.

Industrial unrest is world wide. It exists here as elsewhere. We must face the problem; it is difficult, but surely not insoluble. We

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may fairly aim at two points—one to remove as far as possible the causes of industrial unrest, and second to provide means for the settlement of industrial disputes when these arise.

This is the policy of those who support these amendments. The first is a difficult and complicated business which will tax the energies, the patience, and the resources of the wisest of men. But we believe we are on the right road, and are going on, one step at a time, to remove the causes of industrial unrest, and to ensure to all workers a fair and reasonable wage for their labour, and protection to the consumer against the extortion of the Trusts.

As for the second, we are for the settlement of industrial disputes by compulsory arbitration.

THE INDUSTRIAL POWERS OF THE COMMONWEALTH.

The principle is absolutely right. Unfortunately, as the Constitution now stands, the power of the Federal Parliament is hamstrung. Let us explain exactly how the position stands in this respect. **The Federal Parliament cannot make any law on industrial matters.** So early in the history of Federation as the first Parliament, it was seen that was quite wrong, and a resolution moved by Mr. Higgins (now Mr. Justice Higgins) that the Parliament ought to have full power to make laws as to wages, hours, and conditions of labour for Australia was carried unanimously. The present proposed amendment, therefore, merely seeks to do that which the first Parliament unanimously approved.

THE HIGH COURT AND THE FEDERAL ARBITRATION COURT.

The present powers of the Parliament are confined to making laws for "the prevention and settlement of Industrial disputes extending beyond the limits of any one State" by Conciliation and Arbitration Courts. As interpreted by the High Court, in one judgment after another, this power, inadequate as it is at best, has been reduced to a mere shadow. The Court's judgments are a little staggering, but they are the law. And only an amendment of the Constitution will enable the people to alter it.

We have not the space to enter into details, but shortly it may be said that almost every opportunity for useful work has been closed to the Federal Court. A most serious blow to its powers was the decision

of the High Court that **it cannot make an award a Common Rule in any industry.** One consequence of this decision is that, in order to secure uniform conditions in any industry, the same case has practically to be heard many times over. In one case listed before the Court now, there are over 500 respondents. If each one of these puts his own case before the Court, it will take a year to hear the evidence in that case alone.

INDUSTRIAL WAR NOT LESS COSTLY THAN NATIONAL WAR.

If we value industrial peace, it is essential to give every facility for the speedy settlement of industrial disputes. In such cases **to delay justice is to deny it.** If men can't get their cases heard by a court, they will take the law into their own hands and strike. And strikes are as costly as wars and not less disastrous.

Then again, the Court cannot prevent disputes. It has to wait until a dispute arises and then spreads from one State to another.

This is most absurd and dangerous. It is a continuous menace to the community.

The Federal Court has done excellent work, and the fact, as stated by the President—that in "not one single case has any award of the Federal Court been broken," is a signal commentary on its influence for good. It has been a great factor in preserving industrial peace. **But its power must be increased; it must have the power to prevent disputes arising and spreading; it must be able to deal with the conditions that cause disputes; it must have the power to make a Common Rule.**

STATE COURTS NOT INTERFERED WITH.

It may be said that while a dispute is confined within one State the State laws can deal with it. They can deal with some disputes but not with all. **We do not want the amendment of the Constitution in order to deal with those disputes the State laws can settle, but to deal with those which they cannot or do not settle.**

We want to ensure to every worker a fair and reasonable wage for his labour. That ought to be the right of every citizen in a free country. Where the States Courts ensure it, there is no need for Federal laws. But there will never be rest from industrial strife until this applies all round.

OBJECTIONS ANSWERED.

It is urged that to give the Federal Parliament this power would mean uniform industrial conditions all over Australia. This is absurd. Why should it do so ? As a fact, the Federal Court, which has been engaged for the past seven years under most trying circumstances in dealing with industrial disputes, and has made many awards, always takes into consideration local conditions, and varies its awards in such a way as to give the man who works under more trying conditions and pays more for food, rent, and the other necessaries of life, a higher rate of wage.

LOCAL CONDITIONS CONSIDERED.

Another objection to the amendment is that one court could not deal with all the different industrial conditions of Australia. Much has been made of this objection. We need not consider it very seriously, for the simple reason that we do not advocate such a foolish proposal.

We favour establishing machinery, which will ensure a fair and reasonable wage being paid to every person for their labour. This could be effected by the Federal Court exercising powers similar to those now provided under the Arbitration Act, and appointing local and district tribunals which could deal with all industrial troubles that threatened the peace of the Commonwealth, with which the States could not or did not deal.

FEDERAL LOCAL TRIBUNALS.

STATE RIGHTS BOGEY AGAIN.

This is an objection of which the electors have heard a great deal. We deal with it later. But what the people of Australia have to consider is, not whether a State Parliament loses some of its powers, but **whether they as electors and citizens gain something real** by the amendments.

The idea that power should not be given to the Federal Parliament to preserve peace in cases where the States cannot do so is illogical and dangerous. What on earth does it matter to the electors of Australia whether the States or the Commonwealth have this power ? What they are concerned with is that their interests shall be effectively protected. State rights are very poor and parochial substitutes for the **People's Rights. These are the only Rights that really matter.**

No. 4.—RAILWAY DISPUTES.

PROPOSED AMENDMENT (NEW SUB-SECTION).

Section 51.—(xxxv.A.) Conciliation and arbitration for the prevention and settlement of industrial disputes in relation to employment in the railway service of a State :

This amendment will give power to the Federal Parliament to deal with industrial disputes on State railways or tramways, through Conciliation and Arbitration Courts. **It will not do any more than that. It will not give the Parliament power to regulate fares and freights on State railways, or to interfere in their management, or to take the railways over.** During the Referendum campaign in 1911 there were more outrageous statements made concerning the proposal to give the Federal Parliament power to deal with industrial disputes on State railways than on almost any other. As it is very probable we shall have a repetition of all this over again, it is as well that the electors should clearly understand what this amendment will do.

WHAT THE AMENDMENT WILL DO.

First, it has to be noted that it **differs in a most important way from the 1911 proposal.** That sought to give power to the Parliament to make laws relating to industrial matters generally with respect to State railways. The scope of the present amendment is much more restricted. **It confines the Parliament to dealing with industrial disputes on State railways by means of Conciliation and Arbitration Courts. It begins and ends there.**

NOTHING NOVEL ABOUT THE PROPOSAL.

There is nothing novel about this proposal. It was always thought that the Commonwealth had such a power, and Parliament acted upon that assumption. In 1904 an amendment to include railway servants within the scope of the Arbitration Bill was carried.

The Reid-McLean Government, supported by Mr. Cook, passed the Bill into law with that amendment. But the High Court decided that the Parliament had no power to deal with railway servants. The law is one, however, that Parliament ought to have power to make, which it was thought it could make, and the proposed amendment will enable it to do so.

Mr. COOK SUPPORTED IT.

OBJECTIONS ANSWERED.

What reason is there why Parliament should not have this power? The principle of settling the wages and conditions of labour by impartial legal tribunals is the accepted policy of the country. Why should there be an exception made with railway servants? Why should not they be able to go to the Federal Court like other employés?

It is said that for a Commonwealth Court to settle disputes on State railways and to fix wages and conditions is to interfere with the management of the railways. To that two answers may be made—

RAILWAYS THE ARTERIES OF THE COMMONWEALTH.

(1) That the citizens of the Commonwealth as a whole are vitally concerned in maintaining industrial peace on the railways, which are the arteries of Australia, and that any stoppage of traffic thereon would seriously affect the commerce of Australia and the welfare of every citizen in it. It concerns the Commonwealth no less than the States.

(2) That, as a fact, the rates and conditions of labour of State railway and tramway employés are at present determined in several States by Arbitration Courts and Wages Boards. Whatever wages and conditions these Boards fix have to be paid by the Railway Commissioners; the State Treasurer finds the money, and the State Parliament votes it. Can it be said that those Wages Boards and Arbitration Courts manage the State railway because they decide what are fair and reasonable wages and conditions? How, then, will the Commonwealth Court, by fixing wages and conditions when these are not satisfactory, do so? It is urged that the State Governments are well able to deal directly with their own employés. But, as we have seen, they do not do so, because most of them refer these matters to independent Wages Boards and Arbitration Courts.

WAGES AND CONDITIONS OF LABOUR NOW FIXED BY WAGES BOARDS.

But it may be said that there are State Courts; what is the necessity for a Federal Court? The reply is obvious. The Federal Court will not interfere with the State Courts. The idea is to provide a Court to which all railway and tramway employés may come and get their disputes settled. They need not go to the Federal Court unless they please. It will supplement, not exclude, State jurisdiction.

FEDERAL COURT TO SUPPLEMENT, NOT EXCLUDE, STATE JURISDICTION.

A Federal Court is necessary to preserve industrial peace. In some States there is no Court to which the railway men can go, and we all know that this led to the Victorian Railway Strike some years ago. Then, too, in these days not only is commerce and manufacture federalized, but all the great unions, including the railway unions, are on a federal basis. This fact must be recognised if we desire to maintain industrial peace. A matter that affects men in every State cannot be always dealt with in patches. There must be some power with jurisdiction all over Australia to deal with it. This amendment is not aimed at the destruction of State Courts; it seeks to give the Federal Parliament power to supplement their authority when for any cause it proves insufficient.

FEDERAL COURT NECESSARY.

No. 5.—TRUSTS.

PROPOSED AMENDMENT (NEW SUB-SECTION).

Section 51.—(xl.) Trusts, combinations, and monopolies in relation to the production, manufacture, or supply of goods, or the supply of services.

This proposed amendment gives the Federal Parliament power to make laws with respect to Trusts and Combines and Monopolies in relation to the **Production, Manufacture,** or **Supply of goods** or the **supply of services** in any part of the Commonwealth. **It will not** enable the Parliament to deal with **Commercial and Trading** Trusts, Combines, and Monopolies. The **Trade and Commerce amendment is essential for that purpose.**

THE GROWTH OF THE TRUSTS.

What are known as Trusts and Combines have completely revolutionized the industrial world. Fifty, or even 25 years ago, these organizations were few in number and exercised very little influence. But their growth, especially during the last decade, has been phenomenal, and to-day they control, to a very large extent, the world's production and distribution of wealth. All Trusts are not bad any more than all men are bad, but all must be controlled by law, for their capacity for evil is tremendous. Their power is not limited to a State or a country, or even a continent, but is world-wide. **They are the real rulers of the world. They fix prices. They charge the people what they please; for all must have the necessaries of life, and must buy them from the Trusts. And daily their power grows greater.** Some people are so foolish as to deny the existence of Trusts, but the bulk of thinking men and women know only too well that they exist, for they have felt their power.

THE POWER OF THE TRUSTS.

Modern civilization is a very complex thing, and civilized man a very dependent being. He can only live if he has access to land and the instruments of production that modern science and invention have made available. Clearly then, if these are monopolized by combinations of

great capitalists, **he can only live upon sufferance. He must work upon their terms, and must buy the necessaries of life at the prices they fix. He is in a vice. To all intents and purposes he is an economic slave.**

In some parts of the world conditions have almost arrived at this stage already. In America, Trusts control not only the greater part of the industries and trade of the country, but, by their money and influence, hold the institutions of Government in the hollow of their hands. The Americans are not only in economic but political and social servitude. **The great Trusts influence legislators, judges, and the press.** They prevent laws being passed to take away their old privileges; they secure the passage of laws granting them fresh ones. The legislators are too often their paid agents. As for the press, the Trusts own many papers, and by the power of their money and influence control most of the others. Anything that tells against them they generally manage to hush up. "Keep it dark" is the motto. The power of the Trusts in America has grown to such an extent that **all thinking citizens realize that, unless freedom and democratic government are to be complete shams, the nation must come at once to death-grips with these mighty organizations of capital.** The recent Presidential election was fought largely on this question. It overshadows all others.

IN THE GRIP OF THE TRUSTS.

THE COST OF LIVING AND THE TRUSTS.

INCREASED COST OF LIVING WORLD-WIDE.

The increased cost of living is the one great question forced upon the notice of all civilized people. It affects all classes in Australia, but the masses feel it most of all. What is the cause of it? The great **Vested Interests** of Australia, with insidious cunning, endeavour to persuade the people that the Labour Party, with its policy of **a fair and reasonable wage,** is to blame. Let those credulous people who believe this look at **the facts.** The cost of living has gone up all over the world. In no counrty save Australia is there a Labour Government. In none (but New Zealand) are there Arbitration Courts and Wages Boards. **But in every one there are Trusts,** and where the **Trusts are most powerful there the cost of living has increased the most.**

BUT GREATEST IN AMERICA.

The Trusts are more powerful in America than in any other country! The cost of living has increased much faster in America than elsewhere!! What more

convincing proof can there be that the power of the Trusts is the dominating factor in the increased cost of living? **And we have copied the American Constitution.** These facts should make every Australian think very hard.

It may be said that the Trusts have not got such a hold here as in America. But they are here, as we have found to our cost. The cost of living has increased enormously, and keeps on increasing.

WE MUST ACT NOW.

Are we going to wait until the Trusts get as strong here as in America? Are we going to open our arms to the Beef Trust—the greatest in the world—which is actually here now insidiously, and without any talk, getting in its fine work? **Do the electors realize that once the Trusts have got a firm hold they can't be dislodged?** Do they realize that, once firmly established, these colossal combinations of capital can, by judicious manipulation of their social and financial influence, defy the people? Suppose the country is threatened by small-pox or plague, what do we do? We do not wait until it gets a good hold, but strive with all our might to destroy it in its early stages. We have power to deal with small-pox which is not here, but against the Trusts, which are here, we are powerless.

THE COMBINES OF AUSTRALIA.

THE TRUSTS ARE HERE.

An official list compiled by the Federal Crown Law authorities shows that there were at that time—over three years ago—**some 33 combines in Australia!** Some of these were small, and their influence comparatively limited. **But others were very powerful organizations, possessing great capital, and controlling business all over Australia.** It is not easy to get particulars as to the power and influence of combines. They naturally shrink from publicity. What they desire is to be let alone. When information is sought they either refuse to attend the inquiry or decline to answer questions. By every device possible to those who have money and influence they baffle inquiry. So **it is not easy to get particulars of the Trusts here any more than in America. But we do know something sufficient to make us realize there is much that we do not know, but which we can easily imagine, and sufficient to give us all a great deal to think about.**

THE SUGAR MONOPOLY.

We know, for example, that there is a **Sugar Monopoly;** that this controls the sale and manufacture of sugar **from one end of Australia to the other;** that it fixes **the price the cane-grower gets for his cane, the price the Australian public pays for its sugar.** And not only this, but as sugar is one of the main ingredients of jam, and the main ingredient in confectionery and lollies, it follows that this monopoly not only fixes the price **which the cane-grower gets for his cane and the consumer pays for sugar, but very largely the price paid for jam and lollies. This monopoly levies toll upon every man, woman, and child in Australia. And all have to pay. There is no alternative.**

THE SUGAR OCTOPUS.

SHIPPING COMBINE AND THE COAL VEND.

Then there is **the Shipping Combine.** This Combine controls practically all the shipping on the Australian coast. It can charge what freight it likes. Competition has been crushed out, and shippers must pay their price or not ship their goods. For years this Shipping Combine worked in conjunction with the Newcastle Coal Vend. The evidence in the Vend Case shows that between them they **raised the price of coal to the public from 14s. to 24s. a ton.** And as they held a practical monopoly both of coal and freight, **so that no one could get coal unless they bought the coal carried by the Shipping Ring, and the Shipping Ring** agreed not to carry any coal but that supplied by the Newcastle Vend, **the Vend agreeing not to sell to any but the Shipping Ring, it followed that the people had to pay whatever price the Combine liked to charge for its coal or go without!**

SHIPPING COMBINE AND COAL VEND.

Sugar, Coal, Shipping, all controlled by Monopolies! Pretty fair this for a young country! But there are many others—for instance, the Tobacco Trust, the Meat, Flour, Timber, and many other Rings. **And the American Beef Trust, the greatest in the world, is here and has actually begun operations.*** Yet some people say there are no Trusts here!

THE PEOPLE ARE POWERLESS.

Trusts are the most powerful and most menacing features of modern life. But they are also the most elusive. They assume a thousand

* Hon. J. McWhae, Member of the Victorian Legislative Council, said (*Hansard*, pp. 1165 and 1168):—**This monstrous Trust was getting a relentless control over the foodstuffs of the English speaking world. . . . If the Trust were to get a firm footing in Australia what would happen?**

shapes, and they have many more tricks than a fox. It is a very difficult thing to sheet home a charge against them. And even when this is done we are no better off. The Trust remains, and goes steadily on its way, for **under our present law a conviction is useless.** This is because the power to deal with Trusts is divided between the States and the Commonwealth. **Divided authority paralyzes the arm of the people.** In order to show how futile it is to attempt to deal with Trusts and Combines and Monopolies without full powers, to follow them wherever they are, to run them to earth, to dig them out of their burrows, to deal with them whatever disguise they put on, to control them whatever shape they assume, we invite the electors to look at our own experience and that of the United States.

THE TRUSTS CAN DEFY DIVIDED AUTHORITY.

THE ANTI-TRUST LAWS AND THE TRUSTS.

Our experience has been but short. Theirs has been long. But the lesson is the same in both cases. The American Federal Parliament or Congress, as it is called, **cannot deal with a Commercial Trust inside a State. Nor can ours. It cannot deal with an Industrial Trust at all. Nor can ours.** The American law prohibits all combines that restrain trade and all attempts to monopolize trade, whether to the detriment of the public or not. Our Anti-Trust Act, though its language differs, is based on the American law, but is less drastic, for it is necessary to prove "detriment to the public" in order to secure a conviction. The penalties are severe under both laws.

THE EXPERIENCE OF AMERICA.

It is impossible to make a more rigid law under the American Constitution than the Sherman law. We cannot make a more effective law under our Constitution. It is the most we can do. If these laws fail, the people are helpless. What is their record?

The American Anti-Trust law has been in existence over twenty years; it has been set in force very frequently; quite a number of convictions have been secured, **but not one Trust has been repressed. On the contrary, the Trusts have, during the period the Act has been in operation, increased in number and power almost beyond belief.** They laugh at the law. When the great Standard Oil Trust was, after many years' litigation, at length convicted, heavily fined, and solemnly dissolved by the Federal Supreme Court of America, **it was thought the people had**

CONVICTION GIVES ROCKEFELLER MORE MILLIONS!

won a great victory. Legally, the Trust was dead. Actually, it is very much alive. Its power is greater than ever; those who run it are richer literally by millions of pounds as the direct result of the conviction. This is the pitiable record of the fight between the Trusts and the Federal law in America, and ours is not less abject.

THE COMMONWEALTH IS HELPLESS.

Our Anti-Trust law was passed in 1907. It has been put in force once. It took four years and many thousands of pounds to get a conviction against the Vend and Shipping Combine. But although the evidence was the strongest that could possibly be secured against any Trust, the High Court set aside the conviction. The Commonwealth has appealed to the Privy Council. If the appeal is upheld, it will not affect the Trusts here any more than a conviction under the Sherman Act affects the American Trusts. **While divided authority exists the Trusts laugh at the law.**

Our Anti-Trust Act has **not checked one Trust. There are more Trusts now than when it was passed,** and their power is greater. These are the facts. Our own experience and that of America coincide. The Trusts are growing, and we can do nothing. **The Federal Parliament can do nothing, because the Constitution prevents it and the States are powerless.**

THE FUTILITY OF OUR ANTI-TRUST ACT.

THE STATES ARE POWERLESS.

This is generally recognised. **Mr. Glynn, M.P.,** Attorney-General in the Deakin Government, in his memorandum admits **this fact,** and recommends an **amendment of the Constitution to enable us to deal with "Trusts, combinations, and monopolies in restraint of trade in any State or part of the Commonwealth."**

Mr. Irvine, speaking on the proposals in 1910, in reply to Sir John Forrest, who contended that the States could deal with these Trusts, said, **"The States cannot, that is the whole point."** Sir John Forrest, surprised at this, asked again, **"Not with the operations of a Trust within a State?"** to which Mr. Irvine replied, **"No; the whole evil of the position in the United States is that the individual States are quite powerless."**

Less than the power we ask for is useless. Mr. Glynn's proposal will not do. **It applies only to Commercial Trusts,** and so would not

touch Industrial Trusts or Monopolies like the Sugar Monopoly. And it would not apply to other Trusts unless there was what the Court held was "unreasonable" restraint of trade. As the Court has already decided that a monopoly of over 90 per cent. is not "unreasonable" restraint, a conviction would be almost impossible.

Here, then, is the position: The greatest dangers that threaten modern civilization are Trusts and Combines. They monopolize opportunities; they **crush out competition; they prevent the primary producer getting the value of his produce;** they exploit and levy toll on the **whole people. There is no law here to control them.** The Federal Parliament cannot make such a law; the Constitution prevents it. The States cannot deal with Trusts; American experience and our own prove it. **Unless the Trusts are to rule the people, we must amend the Constitution so that the people may rule the Trusts.**

No. 6.—NATIONALIZATION OF MONOPOLIES.

PROPOSED AMENDMENT (NEW SECTION.)

Section 51A.—(1.) When each House of the Parliament, in the same session, has by Resolution, passed by an absolute majority of its members, declared that the industry or business of producing, manufacturing, or supplying any specified services, is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose on just terms any property used in connexion with the industry or business.

(2.) This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State.

This proposed amendment will give the Parliament power to purchase, on just terms, any business which in the opinion of the Parliament is a Monopoly and run it as a Commonwealth concern for the benefit of the Community. This proposal differs from that submitted to the people in the 1910 Referendum in that it **expressly excludes** from the scope of the power **all business run by any State Government, Municipality, or public authority.** This makes it quite clear that the **Amendment deals only with monopolies by private enterprise.**

THE TWO VITAL CONDITIONS.

The first point to be noted about the proposal is that it applies to **Monopolies only, and not to all businesses;** the second that the Parliament can **only acquire** the business of such Monopolies **on just terms.** These two conditions ensure—(1) **that the power cannot be used to give effect to a policy in which all private businesses would be nationalized;** and (2) that the Parliament **cannot take the business belonging to any Monopoly without paying its fair price.** We desire the electors to take particular note of these facts. They are a complete answer to the wild and misleading statements made during the last Referendum campaign.

THE PARLIAMENT TO DECIDE WHAT IS A MONOPOLY.

We come now to another point. It is a very important one. The amendment provides that the Parliament is to decide what is a Monopoly. To this great objection is taken by our opponents. They say Parliament is not the proper tribunal to do this, that it gives Parliament too wide a power, and that Monopoly ought to be defined in the Constitution. Let us examine their argument quietly. First of all, remember that if "Monopoly" were defined in the Constitution, the High Court would interpret its meaning. We do not know what meaning the Court would give to it. But judging from its interpretations of other words in the Constitution, it would be impossible to prove that any business was a Monopoly. For example, in the "Vend" case, where it was proved that persons who controlled over 90 per cent. of the coal supply of Newcastle, had agreed with the Shipping Combine, who controlled over 90 per cent. of the freight, that they would sell coal to nobody but them, and the Shipping Combine had agreed to buy no coal from anybody but the Vend, or to carry anybody else's coal, the **Court held that there was no Monopoly!**

It seems quite clear, therefore, that **if such an interpretation is to limit the people's power no Monopoly could ever be dealt with.**

MONOPOLY CANNOT BE DEFINED.

DIFFICULTY OF DEFINING A MONOPOLY.

We know a Monopoly when we see one or feel its grip, but we cannot define it in such a way as to include every possible form in which Monopoly may manifest itself.

Why should not Parliament decide what is a Monopoly? It is surely as well able to do so as any other tribunal. **It represents the people.** Every three years at most it springs from the people. It is what the people make it. It is charged with instructions to do the people's business. It knows the evils from which the people suffer, and the remedies the people consider suitable. Remember, this question of nationalizing monopolies is a people's question. By what better means then can it be dealt with than by the direct representatives of the people, specially charged to do the work in the way the people desire? If the power is to be of use to the people, Parliament is not only the best, but the only tribunal to exercise it.

OBJECTIONS ANSWERED.

"But," say critics, "Parliament may abuse this great power." Why should the Federal Parliament abuse this power? The Parliament represents the people, and uses its powers as directed by the people. What the people want the Parliament does; what the people do not want the Parliament will not do. The Federal Parliament will use the powers as the people wish and no further. The State Parliaments possess, and have always possessed, this power. Why have they not abused it? The Federal Parliament, elected by the same people on the widest franchise in the world, will not abuse it.

THE FEDERAL PARLIAMENT IS THE SERVANT OF THE PEOPLE.

WHAT IS A MONOPOLY.

There remains but one more objection to which reference need be made. How is the Parliament to determine whether any business is a Monopoly? Our critics say Parliament is quite unsuited to the task. The answer to their objection is very simple. Parliament makes, and has been always in the habit of making, such inquiries as these long before our time. Parliament has several ways of doing this business. The way in which it usually makes these inquiries is by referring the matter to a Commission or Committee of Inquiry. This body calls for evidence, makes diligent inquiry in every direction, and reports to Parliament. Parliament then discusses the matter in the light of the evidence before it, the public know what this is, and the Press criticises it; public opinion makes itself felt. Monopolies may assume a thousand shapes; the people, who must be protected from all, can instruct Parliament to deal with such of these as they please, when and how they think fit.

HOW PARLIAMENT WILL DECIDE WHAT IS A MONOPOLY.

WHY NATIONALIZE MONOPOLIES AT ALL?

But our critics say that we can control Monopolies without nationalizing them. No doubt it is quite true that some Monopolies could be otherwise controlled if we had the power, but certainly not all. **At the present time we cannot control any Monopoly in any way. And the electors should note that those who object to Parliament** having the power **to nationalize Monopolies also object to the other amendments** which **give** Parliament power to control them.

THE ONLY WAY TO CONTROL.

C.1514.—C.

Here is the position: The people must control all Monopolies in the public interest. Some Monopolies are so powerful that the only way to control them is for the people to take them over and run them themselves. **Take the American Steel Trust, with its £300,000,000 of capital ! ! ! How are you going to control such a Monopoly as that unless you nationalize it ?** The people must take it over bodily. There is no other alternative. Such a Monopoly is too powerful to be allowed to exist in a free country. **It can defy the laws. It can corrupt the institutions of free government.** The American experience proves that conclusively.

BUT THIS IS SOCIALISM ! !

WHERE THERE IS MONOPOLY THERE IS NO COMPETITION.

But our critics say that to nationalize Monopolies is Socialism. It is nothing of the sort. Whether competition is good or bad is not in question here, for where there is a Monopoly there cannot in the very nature of the thing be any competition. (At least, no effective competition, for it is the usual practice of Monopolies to leave one or two small traders just for appearance sake.) Where, then, there is no competition, the only argument against public ownership and control disappears. **If there is to be a Monopoly, it is surely better that this should be run by the community, for the benefit of all, than by a few for their own benefit.**

This is now generally recognised throughout the civilized world. Public ownership of railways, tramways, gas, electric lighting, water, and many other public utilities is becoming more and more the settled policy of the world. In Australia we have gone much further in this direction than in most other countries, and it says much for the policy that **in no single instance has any business nationalized by the State been handed back to private enterprise.** It is, then, no new and venturesome experiment, but something with which we are quite familiar, and which experience approves.

Remember, we **do not want to nationalize all businesses, but only Monopolies.** We do not need to nationalize all Monopolies. But we must have the power to nationalize Monopolies, **for there is no other means by which some can be controlled.**

These are the six Amendments, every one of which we ask the electors to vote for. Let us now deal with some further arguments used against them.

ADMISSIONS BY THE OTHER SIDE.

The Federal Parliament is powerless. **The Constitution must be amended.** The leading men on the opposition all admit it. We here set forth the opinions of some of them.

A memorandum was written by Mr. Garran* at the request of **Mr. Deakin's** Government in response to a request from the Premier of Natal, asking how the Constitution of the Commonwealth had worked out in actual practice. Mr. Garran said that **the Trade and Commerce power ought not to be divided between States and Commonwealth. He wrote—"the limitation to Inter-State and external commerce bisects the subject of trade and commerce and makes a hard and fast division of jurisdiction of which it is difficult to determine the boundaries, and which does not correspond with any natural distinction in the conduct of business. It would be more satisfactory, if feasible, to take power over trade and commerce generally." Mr. Groom,** the Attorney-General, indorsed this memorandum—"I have carefully perused the memorandum and I fully agree with the views expressed." Mr. Deakin sent it to Mr. Moor, Premier of Natal, and to the Secretary of State for the Dominions.

The **Hon. W. H. Irvine,** K.C., speaking on the Referendum Bills in 1910, **supported the Trade and Commerce** amendment (which went a good deal further than the present one), and said, **"I have come to the conclusion that this amendment of the Constitution ought to be made. We should have complete power over trade and commerce."**

He **supported the amendment to deal with Trusts, Combines, and Monopolies,** and said the **States could not deal with them.**

He supported the amendment to give the Parliament full power in regard to **Industrial Matters†,** and said the Federal Parliament should have **power to make laws that would override, where necessary, State industrial laws.**

Mr. Deakin, in his second memorandum on the New Protection, declared :—

"As the power to **protect the manufacturer is national,** it follows that, unless the **Parliament of the Commonwealth also acquires power to secure fair and reasonable conditions of employment to wage-earners, the policy of protection must remain incomplete. He recommended** an amendment of the Constitution to give effect to this."

* R. R. Garran, C.M.G., LL.B., joint author with Sir John Quick of the *Annotated Constitution*, the recognised text-book on the Constitution.
† Mr. Irvine opposed the extension of Federal power to employés on State railways.

Mr. P. McM. Glynn, the Attorney-General in Mr. Deakin's Government, in a lengthy memorandum, stated in plain terms that **the powers under the Constitution with regard to Trusts and Combines and Industrial Matters were most unsatisfactory.** That, **out of 33 Combines** here, the Commonwealth **could deal with but three or four, and none of these could be completely dealt with without an amendment of the Constitution ; that the States could not deal with Trusts and Combines.** And he **recommended that the Constitution be amended to enable Parliament to make laws with respect to "Trusts, Combinations, and Monopolies in restraint of trade in any State or portion of the Commonwealth."**

Even the State Premiers agreed **that the Constitution must be amended, and drafted some proposals,** but nothing has been done owing to disagreement between them.

Here, then, are the opinions of the leading men on the other side. Can anything more clearly show that the Constitution needs amending, and that the Commonwealth is powerless to deal with the two greatest problems in modern life ?

WHY WE MUST HAVE FULL POWERS.

The powers of the Federal Parliament are set forth in the Constitution ; they are there in black and white. People naturally say there ought to be no difficulty in giving the Parliament just the particular power needed—neither more nor less.

NOTHING LESS WILL DO.

But the position is very far from being easy. Experience, indeed, has shown that nothing can well be more difficult. Take an actual case. The Parliament desired to legislate upon Trade Marks. **Now, the Constitution empowers it to make laws in respect to Patents, Trade Marks,** and Copyright. **It is there in plain words.** A Bill was introduced, discussed, and approved. The Governor-General signed it. It became what we call a law. That finishes it? Wait a little. There was a clause in the new Act dealing with Workers' Trade Marks. To this some citizen objected. He refused to obey the law. The matter came before the High Court.

PLAIN WORDS AND THE HIGH COURT.

We need not go into the merits of the case. In substance, the Court decided that (1) the Workers' Trade Mark was an industrial matter, and (2) the Federal Parliament could not make laws on industrial matters. Consequently, **it could not make that law, although the Constitution said in plain words that the Parliament had power to legislate with respect to Trade Marks.**

Let us take another case to which we have already referred. The Parliament never had a doubt as to its power to make laws with respect to **Companies.** Mr. Deakin's Government were confident the Parliament had the power. No one, indeed, questioned it. A Bill was introduced. It became law ; the law was put into force. A company was proceeded against for committing an offence against it. **The High Court** heard the case, and **decided that, in spite of the clear, unambiguous words of the Constitution, the Parliament had no power to make laws with respect to Companies,** except, possibly, to prevent them from starting to trade at all. **It could not deal with their actions ; once in the field they could do what they pleased !**

PLAIN WORDS AGAIN USELESS.

Again, the Constitution gives the power in plain words to make navigation laws. Yet the Parliament cannot make a comprehensive navigation law. And when Parliament passed a law giving **compensation to seamen who were injured,** or to the relatives of seamen **who lost their lives,** the High Court decided it could not make a law applicable to all Australian seamen, but only to some, and to these only in certain circumstances.

THE KAHIBAH CASE.

A DANGEROUS DOCTRINE.

The trouble in all these cases arose from the same cause. The High Court developed a new doctrine of interpretation very wide-reaching in its effects. This may be **called the doctrine of limitations.** As applied here, it means that **the plain words of a section of the Constitution authorizing the Parliament to make certain kinds of laws are not sufficient. The whole Constitution must** be read, and **if some other section** conflicts with this section under review, then the doubt is resolved against the Federal Parliament every time. The section that has been most fatal to our powers for this reason is the Trade and Commerce section. **Therefore, if the Trade and Commerce amendment is not made, the other amendments may be all useless.**

Mr. Irvine, speaking with a **very full and intimate knowledge of the matter, gathered in the High Court as well as in the Parliament,** declared that **nothing short of such an amendment as we proposed in 1910,** both in the **Trade and Commerce and Industrial Matters, would do what was required.**

These, then, are the reasons we ask the people to assent to these amendments. We submit they are the very best of all reasons. **Nothing less will do.** If we advocated less we should only be fooling

the people. We ask for these full powers in order that we may do what the people have long decided ought to be done. Any amendment **less than what is asked for would only result in further litigation, delay, and disappointment. We must do this or nothing. It is for the people to decide.**

THE FEDERAL PARLIAMENT MAY ABUSE THEIR POWERS.

It is urged that, although these amendments are necessary, they must not be voted for because the Parliament might abuse its power. **The State Parliaments have great powers now.** Why don't they abuse them? **They have the power to nationalize, not only all monopolies, but also businesses, and that without paying a penny in return to those who own them. Are they not just as likely to abuse them as the Federal Parliament?** Why don't they abuse them? Why should there be any difference between the State and Federal Parliaments in this respect? Do not the same people elect representatives to the Federal as to the State Parliaments?

THE STATES HAVE THESE POWERS NOW.

Why should the Federal Parliament, the only Parliament in Australia in which both Houses are elected by the people, springing from the people, living only by the consent of the people, and elected to carry out their wishes, deliberately do that which they are pledged not to do, and for doing which every member knows full well the people will destroy him? The Federal Parliament will not abuse these powers. **It will use them as the people direct, and no further.**

UNIFICATION AND STATE RIGHTS.

It is urged that these amendments destroy State Rights, and amount to unification. During the last Referendum campaign these cries were heard from every platform. We shall doubtless hear them again. What do they mean? What is unification? Many of those who oppose these amendments speak as though it was something very dreadful. By continually repeating the word, they have managed to alarm some people, and confuse very many more. We ask the electors first of all not to be frightened at a word. It is not words that matter, but things. We must know what unification means to know whether these proposed amendments are likely to bring it about. The word unification, as here applied, means that there should be only one Parliament for all

WHAT DOES UNIFICATION MEAN?

Australia. At present, as every one knows, we have several Parliaments—one for each of the six States, and the Federal Parliament. So there are seven Parliaments, each of them subject to the Constitution, **independent of the other.** Unification would get rid of all but the Federal Parliament, or, at any rate, make the laws passed by the State legislatures subject to approval of the Federal Parliament. That is Unification. South Africa, the most recent addition to the family of self-governing British Dominions, has adopted unification. As to whether it is good or bad, the electors must decide for themselves. The Labour Party does not favour unification.

Now that we know what unification is, let us see whether these amendments would bring about or lead to unification. In what way do they invade State Rights? How do they lead to unification? **Do they, for instance, impair the sovereignty of the States? Do they abolish the State Parliaments? They do not.** Will the legislation passed by the State Parliaments be subject to approval by the Federal Parliament? **It will not. The State Parliaments will all remain.** The State Governors will all remain. **Whatever laws the States pass will,** subject to the Constitution, **take effect as at present.** It is true that the amendments will give the Federal Parliament power to make laws in respect to certain matters now reserved to the States. But, if that is an argument against these amendments, it must be an argument against every possible amendment, since the only amendments that can be made must take some power from the States to give to the Federation, or some power from the Federation to give to the States.

THE AMENDMENTS WILL NOT LEAD TO UNIFICATION.

These **amendments do not lead to unification.** They **do not violate the spirit of the Constitution.** They do **not impair the rights of the States. They are amendments strictly federal in their nature,** and absolutely necessary if Federation is to be anything more than a sham. They observe both the letter and the spirit of the Federal Pact. **They are necessary in order to make the Federal Constitution an instrument suited to the requirements of a free and progressive people.** So much for the Unification Bogey!

STATE RIGHTS: AND PEOPLE'S WRONGS.

As for State Rights: What are they? We know **what the rights of the people are;** we know, too, what **the privileges of the great vested interests of Australia,** who are at the back of this State Rights cry, are. But we do not know what State Rights are, apart from

VESTED INTERESTS AND THE STATE RIGHTS CRY.

the rights of the people who live in the States. And these people are electors of the Commonwealth as well as electors of their respective States. They are the same people. They elect both State and Federal Parliaments. They have, and will always have, full control over the use to which the powers are put. Are the people not to be trusted to look after their own interests?

To say the States have rights other than the rights of the men and women who live in the States is to misuse words. There are no such rights. But even if there were, how do these amendments affect them? How can they hurt them? How can they touch them? The amendments do not take any property from any citizens. They do not make it more difficult for a citizen to get employment. They do not increase the cost of living. Why are all the great trusts, combines, monopolies, and vested interests of Australia banded together against them? Why are they spending their money largely to defeat them? This State Rights cry is just the cry of vested interests, who fear lest the people should escape from their clutches.

THE POWERS THE STATES WILL HAVE IF THESE AMENDMENTS ARE APPROVED BY THE PEOPLE.

It is said that if these amendments are carried the States will have no powers left. This is quite untrue. The powers remaining to the States will be numerous and vitally important. We append a list of some of them so that the electors may judge for themselves how little truth there is in such a statement. As a fact, the scope of the powers remaining to the States, if these amendments are carried, would be much wider and more important than those then possessed by the Commonwealth.

Land and settlement, agriculture, &c.
Development and protection of natural resources—roads, forests, fisheries, game, mines, water conservation and irrigation, &c.
Education—primary, secondary, and higher.
Public health and morals.
Social relations.
Manufacture, except as to combinations and monopolies.
Industrial law generally, except as regards labour and employment.
Criminal law generally.

Civil law generally—contracts, torts, real and personal property, inheritance, &c.
Liquor and Licensing.
State Constitution and Government.
Municipal and local government.
State Railways (except arbitration or industrial disputes).
State works and undertakings.
State monopolies.
State taxation.
State insurance within the State.
State banking within the State.
State Public Service.
Administration of justice and legal procedure.
Police.
Inter-State Commerce on State Railways.

In addition to the exclusive powers over all these vitally important matters, the State Parliaments will be able to legislate in regard to trade and commerce, corporations, labour and employment, combinations and monopolies, and all other matters not exclusively vested in the Federal Parliament. None of the proposed amendments vest exclusive powers in this Parliament; therefore, so far as the field is not covered by Federal laws, the States can legislate freely on all such matters, as well as those in the list above. This shows how unfounded is the contention that the carrying of these amendments will mean unification and the destruction of the powers of the States.

A POOR ARGUMENT.

Most of our opponents admit that amendment of the Constitution is necessary. They admit that it ought to be done without delay. But they say they will not do it because Labour is in office! Surely this is a very poor-spirited argument. But, such as it is, let us knock the bottom out of it. The people are asked to vote against the amendment because the Labour Party is in office. But how are they there? The reply is obvious. A majority of the electors put them there. How are they to get there again? Only in the same way. The electors must put them there. Now this completely disposes of this argument of the opposition. For if the people want the power to deal with Trusts and Combines, to preserve Industrial Peace, and to otherwise enlarge their self-governing powers,

THE LABOUR PARTY IS IN OFFICE!!

what **is to stop them voting for the amendments and giving the Liberals a majority to pass such legislation under the new powers as the people think desirable?** If they do not like the policy of the Labour Party, it would be a sensible and a wise thing for the people to do. Our opponents ought to strongly support this course, if they really believe their own policy to be a good one.

THE PEOPLE'S GUARANTEE.

One other point needs making clear. Suppose the elector says: "I believe the Constitution should be amended, but I fear lest the Labour Party will use these powers to carry out some wild schemes and generally play ducks and drakes with the country."

If the Labour Party intended, or were likely to do such things, that would be an excellent reason why the electors should not give them a majority. But **it is no reason at all why they should not vote for the amendments of the Constitution.**

NO WILD-CAT LEGISLATION.

In these days the electors do not give their representatives a free hand to do what they please. A Parliament is nowadays elected on a definite programme. It is bound by its pledges to the electors. **It must not do things that it has pledged itself not to do.**

This being the case, all that electors at the next election need do, in order to ensure that these new powers shall not be abused, **is to get from the candidates and the leaders of the two parties a plain, definite, and detailed statement of just what they propose to do during the next Parliament.**

THE LABOUR PARTY—ITS MANIFESTO.

WHAT THE LABOUR PARTY WILL DO IF AGAIN RETURNED TO POWER.

The Labour Party will, as usual, **issue a manifesto setting forth exactly what it proposes to do if the people again give it a majority.** In this manifesto it **will give certain pledges** to the people, **not only as** to what **it will do, but what it will not do during the lifetime of the next Parliament. By these pledges the party is bound** during the Parliament. And the record of the Labour Party is a guarantee to the electors that the pledges so given will be faithfully adhered to.

This, then, is the position of the elector in regard to the uses to which the new powers will be put. His position is quite secure. **He** votes for the amendments in order that he may get powers to protect

himself. He exacts from his representative a pledge that the legislation he wants will be supported, and certain other legislation of which he does not approve, opposed. **He is thus quite safe against wild-cat legislation.**

CANADA—AN EXAMPLE TO FOLLOW.

CANADA HAS ALWAYS HAD THESE POWERS.

One most effective answer to the objection urged by some people that the proposed amendments go too far is found in the example of Canada. Canada, like Australia, is a British Dominion. It is a Federation of Colonies under the British Crown, like our own. It adopted Federation in 1867, and under the Constitution then adopted has progressed marvellously. Canada saw the American Constitution at work. She didn't only read about it in books—she actually saw it. **And, like every other country that has adopted Federation this last century, save our own, she deliberately turned it down.** Everything that the American Constitution is the Canadian Constitution is not. The words of the Canadian Constitution differ from ours, **but the powers we ask the electors to vote for are, and always have been,** possessed by the Federal Parliament of Canada.

AND HAS NEVER USED THEM TO INTERFERE IN LOCAL MATTERS.

It is said that the Commonwealth would use these powers to control local matters. Canada has always **used her great powers for a national purpose and in a national spirit. She has never interfered in purely local matters.** The States legislate for these. There is no trouble, and there is great and ever-increasing prosperity. Why should we not do as they have done?

The Americans, groaning under the rule of the Trusts, fettered by their cast-iron Constitution, which they cannot amend, stand alone amongst the Federations of the world. But they stand surely as a **beacon light to warn us what we should avoid** rather than as a model that we should copy. The logic of facts is too strong and our own experience, brief though it has been, entirely coincides with it. **We must fall into step with the rest of the world, and, if we would be free, must shake off our fetters.**

THE POSITION SUMMARIZED.

Here, then, we leave the question. We have done our part; it is for the electors to do theirs. The responsibility is theirs, and in their hands alone is the remedy.

The Federal Constitution adopted in order to enlarge the self-governing powers of the people actually fetters them. They cannot protect themselves against the greatest dangers which menace civilized man. In regard to the things that really matter, they are powerless. The wages and conditions of labour, the opportunities for employment, the cost of the necessaries of life, are the things that mould the daily lives of the overwhelming majority of mankind. They are the things that really matter to us all. And yet with respect to them the Constitution binds the people, and they are helpless! Such a position is untenable. The people must have these powers. They must be able to control Trusts, to ensure to all a fair and reasonable wage, to ensure the primary producer a fair and reasonable price for his produce, to protect themselves against the extortion of the Trusts, and to maintain Industrial Peace.

The proposed amendments will enable the people to do all these things. And, as for the way in which the new powers should be used, to what extent, and by whom, Labour or Fusion, that is quite a separate matter, and one which lies in the hands of the people themselves. Nothing prevents the people from clothing themselves with these powers—save that they should make up their minds to do so.

THE ARGUMENT AGAINST THE AMENDMENTS.

FOREWORD.

APPEAL TO FELLOW CITIZENS.

The Liberal Party appeals directly to the people over the heads of its representatives, though with their aid, asking for the fullest and fairest consideration of the complex series of amendments which the Ministry of the day are demanding. Momentous public issues are involved. This is an appeal **of citizens to fellow citizens,** in their common interests and for the sake of Australia against the rash, reckless, and unreasonable wrecking of the Federal Constitution, which must result, unless the people's answer is a resounding "NO."

PROPOSALS PREVIOUSLY REJECTED.

In April, 1911, the Fisher Government caused to be submitted to the electors certain proposals for the radical alteration of the Constitution. **By stupendous majorities these proposals were rejected.** In view of the emphasis of that decision, it was to have been expected that the Government would have bowed to the will of the people so clearly and forcefully expressed. In January, 1912, however, the Labour Conference, sitting at Hobart, demanded that the proposals be again brought forward, and following that decision, the Government, ignoring the voice of the people, but responsive to that of the Conference, is again submitting the proposals rejected two years ago. It threatens that if they are not approved on this occasion, it will continue to bring them forward until the people do accept them. It seeks to win by importunity that which the judgment of the people has decisively rejected.

LAWS AND THE CONSTITUTION.

With the passing of new and the repeal or amendment of old laws the people of Australia are thoroughly familiar. Times change; circumstances alter; ideas develop and disclose the laws of yesterday as insufficient or unsuited to the needs of to-day. But there is a broad **distinction between ordinary laws and the National Constitution.** The former are made and can be altered or abolished by Parliament. The latter is the law made by the people themselves for the direction, control, and limitation of Parliament. It is the instrument by which a nation confers power upon its Parliament, allots its functions, instructs it how far it may go and where it must stop. Beyond the power therein conferred all Parliaments are powerless; within its bounds they are all-powerful.

COLLECTIVE EFFECT OF THE AMENDMENTS.

The purpose of the proposed amendments is to enlarge and multiply the powers which can be lawfully exercised by the Federal Parliament. Taken altogether they represent **a vital and far-reaching alteration of the Constitution** accepted in all solemnity, and after full consideration by the people of Australia, only twelve years ago. In view of the great and fundamental alterations proposed, it is well to remember the character of the Constitution then adopted and the principles which guided the people in its construction.

THE ESSENCE OF FEDERATION.

Prior to Federation, full sovereign power was vested in the States. Each and all of them could legislate how they liked upon any subject they pleased. Their **powers of self-government were complete and absolute**—save in several unimportant matters arising from the Imperial connexion. **The Federal Constitution created no new powers.** There were none to create. What it did was to divide the already existing powers, handing some to the new Government and new Parliament it called into existence, and leaving the rest in the free and unfettered control of the States. This, indeed, is the essence and purpose of a Federal Constitution—that it divides the sovereign power of the people between two governmental agencies, the Federal and the State. The line of division is variable. In some federations it is so placed as to give more, in others less, to the Central Government.

In deciding where to draw the dividing line that was to distribute their sovereign powers between these two authorities, the people of Australia held firmly to the principle that while matters of national concern and national extent should be transferred to the Central Government, **the States should remain the repositories of power in all matters of local concern,** calling for the exercise of local judgment, needing to be fashioned to meet local requirements, and in accordance with local conditions. They would have revolted then—as they did at the Referenda of 1911—from any proposal to unnecessarily centralize the power and functions of government. They not only declined to give the Federal Government any power over the domestic affairs of the States, but by a special clause in the Constitution confirmed the States in the possession of those powers. As if with an instinctive knowledge that the Federal Government would seek to trespass upon those powers, they installed the High Court as the guardian of the Constitution, empowering it to restrain the Federal authority if and when it attempted to go beyond the bounds set by the people themselves.

RETENTION OF LOCAL AUTONOMY.

In declining to transfer to the Central Government power over their local concerns, the people of Australia were not restrained by mere local jealousy. They moved in the light of experience. There was not—and there is not—a district in any of the States that has not voiced its **complaint against the evils and neglects of centralization.** With clear judgment the people saw and felt that if injury resulted from centralization at one point in each State, that injury would be deeper and less capable of remedy if centralization were permitted at one point for the whole of Australia. While, therefore, they readily yielded the larger national affairs to the control of a Central Government, with scrupulous care and determination they **retained their own local affairs in their own local keeping.**

TWO IMPARTIAL AUTHORITIES.

But, though **proceeding on lines suggested by common sense and approved by experience,** the people were not niggardly in the grant of power they conveyed to the National Parliament. On this point it is well to consider the testimony of two competent and important authorities.

Professor Dicey (Law of the Constitution) says :—**"The Parliament of the Commonwealth is endowed with very wide legislative authority ;** thus it can legislate on many topics which lie beyond the competence of the Congress of the United States, and in some topics which lie beyond the competence of the Parliament of the Canadian Dominion."

The Hon. James Bryce (Studies of History and Jurisprudence) says :—"The range of powers granted to the National or Commonwealth Parliament is very wide, wider than that of Congress or of the Swiss National Assembly, or even of the Dominion Parliament in Canada."

POWERS SOUGHT ARE EXCESSIVE AND UNNECESSARY.

By the constitutional amendments now submitted, **the people are asked to divest their State Governments of a large portion of the power they now possess,** and to transfer it to the Federal Government, already richly endowed. Had the proposals been limited to the transfer of power necessary to the proper and efficient working of the Federal Government, or to the powers that were national in character and scope, or which could be more effectively exercised by the Central Government, there would be no need to appeal to the citizens of Australia to reject them. But that they go beyond all that is either necessary or desirable can be proved out of the mouths of their sponsors. Mr. Hughes has said, and others have repeated, that though tremendous powers are being sought, they will not all be used. **Powers which it is not intended to use cannot be needed.**

They are clearly not Federal, and ought therefore to be left to the States.

WEIGHTY LEGAL OPINION.

In this connexion the impartial, deliberate, and reasoned judgment of Mr. Mitchell, K.C., deserves to be given full weight. Accepting full responsibility for his utterance, both as a leading barrister and a leading citizen of the Commonwealth, he wrote :—

> "My deliberate opinion is that the amendments now proposed would give to the Federal Parliament powers of so wide and sweeping a character that, in the absence of any protection similar to that afforded by the Canadian Constitution, **the result would be a kind of mongrel Constitution** between the two systems, which would be found **impracticable in working** and would naturally result in unification as the lesser of two evils."

This frank and fair summing up by a high authority should be kept well in mind by those who desire to understand the effects if they vote "Yes" to the six extreme amendments now submitted to the electors.

UNIFICATION THE INEVITABLE RESULT.

The proposed wholesale transfer to the Federation of powers at present possessed by the States represents **a long stride in the direction of Unification.** Although it does not achieve that directly and immediately, it will, as Mr. Holman, Attorney-General for New South Wales, has declared, inevitably lead to it.

Unification is Centralization. It is for the electors to say whether they desire to have the control of their local and domestic affairs centralized in one spot and in one Government; whether they are content to give up the right they now exercise through their State Parliaments of dealing with their own purely State concerns.

The opponents of these proposals are entitled to point out the many **evidences of the strong desire for unification,** which finds expression in the ranks of the Federal Labour Party. The official *Hansard* and the public prints contain innumerable and direct declarations from members of the Labour Party in favour of this course. Proposals for the federalization of education, of lands, of railways, and of rivers have been submitted to Parliament, while one member of the Party went so far as to bring in a Bill providing for the straight-out unification of the whole of Australia. By themselves these individual declarations might not be of moment, but, taken in conjunction with the present proposals, which make so great an encroachment upon the local powers of the State, they justify the contention that unless peremptorily checked the Federal Labour Party will ultimately land the country among the shoals and shallows of Unification.

No. I.—TRADE AND COMMERCE.

PROPOSED AMENDMENT.

Section 51.—(i.) Trade and commerce, ~~with other countries, and among the States,~~ but not including trade and commerce upon railways the property of a State except so far as it is trade and commerce with other countries or among the States :

FAMILIAR, BUT ALL-EMBRACING WORDS.

"Trade and Commerce" are familiar words, but it is only on reflection or by reference to the decisions of the Courts that one perceives what **an unaccountable host of dealings, of transactions,** buyings, and sellings, and exchanges, are included with all their ramifications under these two familiar terms.

All traffic and intercourse, all the every-day businesses and occupations in which men and women earn their livings, all their sales and purchases, including those for their homes and children, for food, shelter and clothing, all great or small, general or local, are included under this head. By an independent endowment (section 98) Navigation, Shipping, and Railways are also within their scope.

NATIONAL TRADE AND COMMERCE ALREADY IN THE CONTROL OF THE NATION.

Having realized the enormous area this simple heading covers, the next point to remember is that **the Commonwealth already possesses the sole control of Australian trade and commerce** not only between the States but also with the Mother Country and all other nations.

On the other hand each of the States enjoys the same power, but only over trade and commerce within its own borders.

The proposal of the Caucus now resubmitted is that the **Commonwealth should legislate** for trade and commerce **at its pleasure** within any or all the States, as well as for all trade and commerce without them. The whole control of the whole of the business of the whole of the Commonwealth will then be vested in the Federal Government; that is to say, **in the Centralized Government, which will then absolutely dominate Australia** in all these matters and in others to be considered hereafter.

THE RANGE AND SCALE OF THE POWER SOUGHT.

This is but the first of the series of annexations submitted at this Referendum, and it is immense. All our Trade and Commerce is brought under this one Legislature. The States' control still remains, but only to fill up any interstices that may be overlooked until they, too, are absorbed.

TWO LAWS FOR THE SAME THING.

This means that in the meantime **two sets of laws will apply to every trade, calling, business, and employment** within the States, and apply to all their dealings.

STATES MADE DEPENDENT ON COMMONWEALTH.

But the practical application of their State laws would be dependent upon the interpretation by the Courts of all the Acts dealing with Trade and Commerce passed by the Federal Parliament. They would affect any or all of the different States, of course affecting them differently according to the terms of their local legislation. They would affect them day by day.

COSTLY COURT INVESTIGATIONS.

The determination by the Courts of the particular **points at which the Commonwealth law begins** and **the State law ends** will be very difficult, very tedious, and very expensive to all concerned. Yet this issue must arise constantly, and in many places. The judgments will be constantly challenged. Then, all Australian citizens will be made subject in their every-day businesses to **a double jurisdiction**, involving continuous uncertainty, expense, and confusion.

LAW AFFECTS ALL BUSINESSES, CALLINGS, AND PERSONS.

It must also be remembered that "Trade and Commerce" laws, **with their dual problems and complexities, affect every one** either directly or indirectly, since they embrace the dealings of producers, manufacturers, carriers, agents, employers, farmers, skilled and unskilled labourers, buyers and sellers, State officials and railway men, and private persons in their private affairs; they include all transportation, navigation, shipping, and railways, with the means and instrumentalities employed, the freights and fares paid, the passengers, and the highways they utilize.

Should the Referendum indorse the annexation of trade and commerce proposed by the Caucus, we shall place under the Federal Government, among other matters too numerous to catalogue, all the sales of all our butchers, bakers, grocers, drapers, millers, auctioneers, pedlers,

hawkers, chemists, druggists, and many others too numerous to recapitulate; all business dealings in milk, dairy products, gold, coal, firewood, poisons and explosives, fruit cases, bags, sacks, marine stores, all markets and adulterations, besides shipping freights, fares, port and harbor dues, wharfage, and pilotage, even in State waters.

LINE MUST BE DRAWN BETWEEN COMMONWEALTH AND STATE CONTROL.

It is true that every division of the Trade and Commerce power must be more or less arbitrary. It requires a very clear line to protect the public against unintentional breaches of either Federal or State law. But unless this line is drawn, unless national "Trade and Commerce" is Federal, and as such best controlled by the Commonwealth, while each State remains master in its own house, **we shall be plunged into a chaos of litigation** over transactions, often petty in nature, as well as over many major complications already mentioned. Both divisions will occasion embarrassing sources of dispute and dissension.

WHERE WE ARE.

If we are to continue Federal, a marked border line must be drawn between the National and State spheres. Fortunately for us **the clearest dividing line possible is that already well defined in the Federal Constitution.** This allots to each State the control of its own citizens, in all their local business transactions, within the States, leaving to the Federal Parliament all the "Trade and Commerce" that passes beyond their boundaries. Nothing could be plainer or fairer. It needs neither explanation nor apology.

WHERE WE MAY BE.

On the other hand, the Caucus expedient now demanded, compelling all seven Legislatures to struggle with frequently altering boundaries on different subject-matters, dividing, sub-dividing, and altering business responsibilities within them at pleasure, is an extravagantly costly and clumsy proposal. The common sense of the electors should at once reject it.

EXISTING DIVISION MOST CLEAR AND PRACTICAL.

The fact to be kept in mind is that **the control of all Federal, Imperial, and Foreign Trade and Commerce already belongs to the Commonwealth.** National "Trade" and national "Commerce" are now controlled by our national Parliament. Why should more power of interference be sought?

On the other hand, the authority over "Trade and Commerce" within each State to-day is vested in the Parliament of that State. In this respect each State is independent of every other State and also of the Commonwealth.

The boundary between each State and the Commonwealth, so far as Trade and Commerce are concerned, is now perfectly clear. It could not be plainer. No simpler division of the power could be adopted.

Of course, doubts will arise in some special cases whether a particular trading transaction is really within the State or beyond it. This must always be a possibility, though every decision given will lessen the doubt.

Still, the one outstanding fact, plain and palpable to all, is that the existing division of the power in the Commonwealth Constitution is the clearest and most practical possible. With every year that boundary line will become clearer and the possibilities of litigation less. On this plan the Commonwealth and the States share their responsibilities quite fairly.

ALTERATION ANTI-FEDERAL.

Further, when it is remembered that the present division is federal, while any alteration must be anti-federal, its irresistible claims to permanence can no longer be set aside. No thoughtful citizen will consent to alter it.

If the Caucus amendment be accepted, as now proposed, every Act relating to "Trade and Commerce" passed either by the Commonwealth or by any State will alter the boundaries either between the Commonwealth and all the States, or between the Commonwealth and some of the States.

The permanency and clearness of the boundaries gradually and laboriously laid down will be lost. The legal profession will flourish upon the crops of discords and innovations which any one of our seven Parliaments can launch, as often as it pleases, and may launch in some instances without being forewarned.

Whenever the Federal Parliament chooses to take action under the new system, its decrees can at once profoundly disturb the trade and commerce of all or any of our six States.

It can keep on disturbing them, legislating at its pleasure, or obtaining fresh definitions of its powers at any time and without consulting the electors.

With this prospect in view, it becomes unnecessary to enter into an exposition of the "Trade and Commerce" consequences of the complete programme of the Labour Caucus. Still, it should be of assistance to the electors, when considering this particular amendment, to have before them the publicly-declared "objective" of its policy in this relation. This is the true "key to the position," without which people would be ignorant of the real meaning and intention of the present Ministry and its Labour supporters.

THIS POLICY OF ALTERATION DICTATED BY LABOR CAUCUS.

The position has been made quite clear by the Attorney-General, who insists that—

"It is by the regulation of profits and the regulation of prices alone that we can hope for any solution of this problem. The workers of the world will be able, some way or other, to get enough wages to live upon. But there is no method at their command by which they can control profits and prices."

He insists that—

"Industrial unrest is a condition innate in the present position of affairs; and it will not cease until present conditions are completely changed."

His final warning is—

"We come forward with a scheme or plan of no cut and dried character. **There is no such plan.** We say that by the process of evolution, the people must come to their own."

THE CONSEQUENCE.

The result of the acceptance by the people of this wide and wild project will be to leave the way open for the still wider, wilder, and more costly scheme for "nationalization" (that is to say, the Commonwealth ownership) "of **all the means of production, distribution, and exchange.**"

No. 2.—CORPORATIONS.

Section 51.—(xx.) ~~Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth.~~

Corporations, including—

(a) the creation, dissolution, regulation, and control of corporations;

(b) corporations formed under the law of a State, including their dissolution, regulation, and control; but not including municipal or governmental corporations, or any corporation formed solely for religious, charitable, scientific, or artistic purposes, and not for the acquisition of gain by the corporation or its members; and

(c) foreign corporations, including their regulation and control:

PROPOSED AMENDMENT.

COMMONWEALTH TO CONTROL ALL COMPANIES.

The "Corporation" amendment of the Constitution is both ruthless and reckless. To prevent any confusion as to the term "Corporation," which is sometimes used in connexion with "Trusts and Combines," it must be clearly understood that as used in the amendment **"Corporations" are joint stock, co-operative, and other public companies. It takes from the States and gives to the Commonwealth unrestricted authority over Corporations, including even those having dealings only within the States** or any one of them.

COMMONWEALTH NOT TO CONTROL FIRMS OR INDIVIDUALS.

Yet **this authority is denied to** precisely the same operations if they are carried on by **firms** or persons instead of by companies. **Over firms,** however large in their dealings, however huge their businesses, some carried on in every State in Australia and in all

its principal cities, the Commonwealth is to have **no authority.** They will buy and sell as they please, being quite beyond the reach of Federal legislation, beyond its control or even inspection. Any trader, no matter what his occupation, how important or how trifling his investments or how considerable, is to be able to snap his fingers at Commonwealth control. They are compulsorily made "State Righters" in the widest sense of the term.

BISECTING BUSINESS.

There is no reason whatever for making any such extraordinary difference between a registered company and other traders doing the same work. It would plunge both of them into continuous difficulties. **There can be no practical justification for bisecting business** in this high-handed fashion.

LARGE EXTENSION OF OTHER POWERS WITH NO COMPENSATING ADVANTAGE.

Besides what it does in that way, this amendment reinforces and extends the already far-reaching operations of the Trade and Commerce and the Industrial amendments. Yet there are **no accruing advantages** from this one-sided extension of centralized authority. Not one has been cited as counterbalancing the **mischief** and **embarrassment** it will occasion.

SIMILAR BUSINESS UNDER DIFFERENT LAWS.

Here we have utterly **artificial, unwarrantable, and injurious dividing lines unnecessarily drawn** between absolutely the same businesses, between those conducted by companies or corporations on the one hand, and those conducted by firms or individuals on the other. **There is no advantage** in this separation. **There is no sense. It is a wilful and wanton piece of folly.** Very little thought is needed to show it. No attempt has been made so far to explain it; nor yet to explain it away.

INDIVIDUALS LEFT UNDER STATE LAW. COMPANIES TRANSFERRED TO FEDERAL LAW.

What are the results of this meaningless and most impracticable action? All **the interests of individuals or of partnerships** in all kinds of businesses **are left wholly under** the control of **the State Legislatures,** as of old.

All **the businesses of corporations,** whatever they are and no matter how trifling, **are transferred to** the jurisdiction of **the Federal Parliament.**

This is done without rhyme, reason, or any advantage to the public. **If the electors allow it, we shall have two codes of laws in place of one.** Both will affect the **trade and commerce of the** whole continent. Both

will destroy long-established precedents that have worked well for many years. **Both will create a host of fresh problems.** The only people advantaged by them will be the members of the legal profession.

ADVERSE CRITICISM BY MR. JUSTICE HIGGINS.

It is instructive to note that the Judge of the High Court most often quoted by Ministerialists has not been cited by them in this relation, despite his special professional qualifications for handling it. Yet one of his most pungent judgments handles this very proposition in a most lucid and effective manner. **Mr. Justice Higgins, in the important Huddart-Parker case, dealt drastically** with the argument on this very matter submitted by counsel appearing on behalf of the present Government in a case launched by the present Attorney-General. The Cabinet insisted that this inexplicable subdivision of all our commerce was already law. Here are the well-weighed words of the learned Judge, when thus challenged :—

> " If the argument for the Crown is right, **the results are certainly extraordinarily big with confusion.** If it is right, the Federal Parliament is in a position to frame a new system of libel laws applicable to newspapers owned by Corporations, while the State law of libel would have to remain applicable to newspapers owned by individuals. If it is right, the Federal Parliament is competent to enact Licensing Acts, **creating a new scheme of administration and of offences** applicable only to hotels belonging to Corporations. If it is right, the Federal Parliament may enact that no foreign, no trading or financial Corporation shall pay its employés less than 10s. per day, or charge more than 6 per cent. interest, whereas other Corporations and persons would be free from such restrictions. If it is right, the Federal Parliament can enact that no officer of a Corporation shall be an atheist or a Baptist, or that **all must be teetotallers.** If it is right, the Federal Parliament can repeal the Statute of Frauds for the contracts of a Corporation, or may make some new Statute of Limitations applicable only to Corporations. Taking the analogous power to make laws with regard to lighthouses, if the respondent's argument is right, the Federal Parliament can **license a lighthouse for the sale of beer and spirits,** or may establish schools in lighthouses with distinctive or doctrinal teaching; although the licensing laws and educational laws, for ordinary purposes, are left to the State Legislatures."

JUDGE HIGGINS UNANSWERED.

Not the least remarkable of the many extravagances now being submitted to the country in the current Referendum are these which the learned Judge, in his most lucid and emphatic judgment, at once nailed to the counter. It contains in advance some of the most stinging censures upon what is now a proposed Constitutional amendment ever uttered from the judgment seat of the High Court. **They are unanswerable. They have never been answered or attempted to be answered.**

AN INDEFENSIBLE AND UNDEFENDED AMENDMENT.

Consideration of this amendment will be greatly simplified if it is kept well in mind that the proposal has been condemned by the highest Court in the Commonwealth.

This tyrannical treatment of plain incontestable issues is the more indefensible because, as Liberal members have proved again and again, the present law affecting Corporations is unsatisfactory. Two years ago the present Opposition offered their unanimous support to an amendment of the Constitution which would have placed both the creation and dissolution of Companies under the control of the Federal Parliament, leaving them to carry on their various trading operations under the same State laws and conditions as those imposed upon firms and individuals—their competitors.

OPPOSITION TWICE OFFERS REASONABLE AMENDMENT.

WHAT LIBERALS WILL DO.

This clear, common-sense amendment the Liberal party has twice offered to pass. It would have established from the very outset uniformity of status throughout Australia for all Corporations, safeguarding their activities and placing them upon the firmest foundations. That these should be soundly laid is an extremely important consideration for all connected with or doing business with them. The dissolution of all Companies all over Australia is a matter of general concern, requiring to be dealt with on a Federal basis. Every one admits that these two amendments would prove great boons to business men and women. They would afford guarantees of good management, and the effective conduct of business, which would be very valuable to the extremely large and ever-increasing numbers of those private persons who, in one way or another, are brought into business relations with Companies.

CONTROL OF DETAILS OF LOCAL BUSINESSES SHOULD BE LEFT TO STATES.

All the rest of the provisions required should be left to the State Legislatures, who are naturally much more free to handle the every-day transactions of those bodies, and to supervise their working, than a national Legislature, already overburdened with much complex legislation on a national scale. Nobody disputes the value of the amendment which the Opposition has demanded for the last three years—demanded on behalf of all our citizens, of all every-day purchasers, business people, and investors. No one denies the efficacy and simplicity of that amendment. It is Ministers who stubbornly refuse it.

Again, nothing would have been easier than to subdivide the sweeping amendment demanded by the Caucus, so as to put first that which the whole of the Liberal party was prepared to accept as a separate issue at the Referendum. **This would have been triumphantly carried by the votes of both parties.** Once their foundation and their dissolution had been provided for, the control of Corporations in the rest of their operations would then have stood by itself, and have been accepted or rejected as the electors thought fit.

This Constitutional amendment, the greater part of which has not been defended in any part by its authors, received its quietus long since when it was riddled with judicial thoroughness, through and through, by the criticism of its mischief and its folly by Mr. Justice Higgins.

No. 3.—INDUSTRIAL MATTERS.

Section 51.—(xxxv.) ~~Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:~~

Labour, and employment, and unemployment, including—

PROPOSED AMENDMENT.

- **(a) the terms and conditions of labour and employment in any trade, industry, occupation, or calling;**
- **(b) the rights and obligations of employers and employees;**
- **(c) Strikes and lock-outs;**
- **(d) the maintenance of industrial peace; and**
- **(e) the settlement of industrial disputes:**

THE RULING PRINCIPLE.

In the scheme of Australian Federation, as in all forms of federation, the ruling principle is that, while the Central Parliament has intrusted to it matters of national concern, the regulation of matters of domestic or local concern is left to the States. **And no department of the law-making power is more essentially a matter of local concern than that which determines the conditions of employment in local industries.** This is conspicuously so in Australia, where the limitations which nature imposes upon human effort vary over a vast continent as widely as the face of nature itself.

ONLY FEDERAL CONTROL AUTHORIZED.

Accordingly, the people of Australia would never have accepted (had the statesmen who drew up the Constitution thought of suggesting it) a proposal to hand over to a Parliament sitting in Melbourne, or Canberra, or elsewhere, the power to regulate the conditions of employment in every part of this continent. The power of appointing some tribunal to settle disputes, which should extend over more than one State, was included in the Federal Constitution in order to meet the exceptional case of a strike, such as the great shipping strike of 1890, which might assume such proportions that no single State could deal with it. The use which has

been made by the Labour Party of this power is a striking instance of how that which was intended as the medicine of the State may be turned into its daily food.

THE ARBITRATION COURT PERVERTED.

The history of the Federal Court of Conciliation and Arbitration, during its short but remarkable career, affords both the explanation and the condemnation of the present proposal for the amendment of the Constitution. Instead of being a tribunal, such as was contemplated by the Constitution, whose good offices could only be called into requisition to avert a national calamity, it has seen its valuable work more and more impeded and interfered with until **it is apparently becoming a generating centre of industrial unrest. Instead of being the means of settling real Inter-State disputes, it threatens to become the source of artificial Inter-State disputes.**

UNNATURAL COMBINATIONS.

Workers in industries in parts of Australia remote from one another, industries which had no connexion with one another, except in name, have been induced to create so-called Inter-State disputes in order to get before this industrial tribunal. Sleeper-hewers in the jarrah forests of Western Australia, timber-yard employés in Melbourne, saw-milling hands in Tasmania, soft pine workers in remote parts of Queensland, men who had never heard of each other before, and who had no industrial or commercial connexion, find themselves united in journeying towards the new altar of industrialism.

THE HIGH COURT ATTACKED.

The High Court has from time to time, with a courage which may be expected from a tribunal charged with the responsibility of maintaining the Constitution against encroachments, held that these so-called " disputes extending beyond the limits of one State " were not disputes at all in any real sense, or in the sense intended by the Constitution. As the result of this action, which to all sober-minded Australians will seem to be in the direct course of their duty, the Judges have been subjected to indignity and misrepresentation. Moreover, the Labour Government has induced its majority in Parliament to do all it can to make the High Court powerless as a Court of Revision. Various Acts of Parliament clothing, or purporting to clothe, the Arbitration Court with fresh powers, preventing, or purporting to prevent, the High Court from interfering with its decisions, have been passed.

THE ARBITRATION COURT MAROONED.

All these efforts to limit the authority of the highest judicial tribunal under the Constitution having proved ineffectual, it is now sought to get over all difficulties by the simple process of handing over to

the Federal Parliament complete control of "employment" and "unemployment" in every industry throughout Australia! **This, if carried, will effectually dispose of Federation.** In order to appreciate the effect of the proposed amendment, let us consider its terms and what the terms mean.

OMNIPOTENT LEGISLATION.

This amendment would take from the State Parliaments the right to pass laws dealing with **labour and employment** generally **without any qualification or limitation**; the right to legislate concerning all the conditions and incidents of labour and employment **even in the minutest details** in all the walks of life, professional, clerical, and industrial; in all the working institutions and establishments, private and public, throughout the Commonwealth where persons are employed or render service of any kind. It would not only prevent the State Parliament from regulating the hours of labour and the rates of pay or remuneration in all trades, callings, occupations, and professions; but would authorize the passing of laws, defining the legal relations of master and servant, employer and employé, master and apprentice, the liability of employers and employés for accidents happening or any neglect of duty by either one or the other. It would also withdraw from the States the power to prohibit working on Sundays, the regulation of holidays, and so on. It would enable the Federal Parliament to sweep away all the present laws authorizing the settlement of industrial disputes by Wages Boards and by local Industrial Tribunals, and to substitute some new machinery or methods to regulate such matters. Further, and more serious still, **it would permit the Federal Parliament itself to determine all the rates of pay and hours and conditions of labour and employment in all trades, callings, occupations, and professions in Australia, without the intervention even of any method of Conciliation or Arbitration or Wages Boards or anything of the kind.**

THE STATES EMPTIED INTO THE COMMONWEALTH.

To say that such powers are inconsistent with any rational form of Federation is a mere truism. If the power of regulating all industries in all parts of Australia is to be handed to the Federal Parliament, it would be better to hand over all powers at once to that Parliament, which could then dictate all conditions of employment, and in effect control and govern railways, mines, lands, and all other local interests. Why leave to the States the empty shell when the kernel is transferred to the Federation?

CENTRALIZATION ABSOLUTELY INJURIOUS.

Not only, however, is the proposal inconsistent with the essential principle of Federation, but it is dangerous to the welfare of Australia by introducing the most mischievous form of centralization, just where decentralization is most beneficial.

WHY NOT THE STATES LOOK AFTER THEIR OWN?

It would be impossible to conceive, much less justify, uniformity of regulation throughout the States in all industrial matters. If the subject-matter such as labour and employment is a complex one, capable of a variety of regulations, differing in States, and differing even in districts within a State, according to local resources, climate, cost of living, and facility or difficulty in securing labour, it is proof positive that **it should be left to the States to be dealt with in accordance with the local requirements, local opinion, sentiment, and custom.**

FEDERAL CONTROL ESSENTIAL.

On the other hand, the fact of the existence of a real industrial conflict extending over more than one State is not only a necessary occasion for Federal intervention, but is a demonstration of a community of interest, and association and sympathy, which justifies Federal intervention. Industrial matters which touch and concern the people of more than one State necessarily become Inter-State, and therefore Federal, and within the Federal sphere, but it can hardly be contended that such matters as an allowance for tea-money to the shop girls in Hobart, or holidays in Perth, or workmen's liens in Adelaide, or the wages of day labourers in Sydney, or glass screens to protect tramway gripmen in Melbourne, properly come within the sphere of Federal politics!

THE FEDERAL PARLIAMENT EXCLUDED FROM ITS NATURAL SPHERE.

To all criticism we may expect the hackneyed reply:—"Trust the Parliament; it does not follow that because Parliament has the power it will exercise it so as to override State legislation on the same subject." The rejoinder is obvious. **All experience proves that the Parliament which has the power will exercise it.** The Labour Party is straining at the leash, and the scent is at the hottest. It is not too much to say that if the powers claimed by the present proposals become part of the Constitution, **the National Parliament of Australia will be the arena of perpetual industrial struggles,** and, if little else, the State Parliaments will be shorn of some of their most fitting and useful duties, and the Federal Parliament will be practically deprived of the power of performing with proper attention the national duties which are its proper function.

No. 4.—RAILWAY DISPUTES.

PROPOSED AMENDMENT (NEW SUB-SECTION).

Section 51.—(xxxv.A.) Conciliation and arbitration for the prevention and settlement of industrial disputes in relation to employment in the railway service of a State:

A MOST SIGNIFICANT PROPOSAL.

The proposal that the Federal Parliament should possess the power to regulate the conditions of employment on State Railways is in some respects **the most significant of all the proposals** now submitted to the people. The history of this extraordinary proposition shows how completely the Government of Australia has become the mere register of determinations arrived at by Conferences of Unions.

A CHANGE OF FRONT AND THE REASON FOR IT.

When in 1910 the Government Referenda proposals were introduced the proposal to bring the State Railways under the Federal Arbitration power was omitted, **it was omitted with intention.** The project could not have been overlooked. Ever since the Railway Servants' case in 1906 the avowed object of a considerable section of the party has been to nullify the High Court's decision by an expressed amendment of the Constitution in that direction. But the suggestion that **the Federal Parliament should have power to fix the wages, hours of labour, and conditions of employment on State Railways, whilst the State should be left with the whole responsibility of managing and financing them** was a dose of Constitutional topsy-turvydom which the most devoted servants of political unionism could not swallow without an effort.

The natural reluctance of men acquainted with public affairs to adopt such a course did not, however, long avail them. At a Conference of representatives of **the Amalgamated Railway Servants' Association,** held in Sydney in 1910, **it was intimated in plain terms to the Government that it must take the medicine however nauseous.** Accordingly, on the 27th day of October, 1910, at the very end of the long constitutional debate, a new railway proposal was brought down by Mr. Hughes, the Attorney-General. **No explanation** of why it had not been incorporated in the original proposals for an amendment of the Constitution, or **why it became necessary to reverse the considered policy of the Government**

on this important question without even consulting the Prime Minister, who was then on his way to South Africa, was vouchsafed to the House or to the country.

THE PEOPLE DECLINED TO INDORSE THE PROPOSAL.

This strange and silent decision of the Government did not tend to evoke public enthusiasm. The people in a very emphatic way refused to follow either the advice or the example of the Ministers.

It is a fatal mistake to treat the Australian people as being any longer ignorant of the fundamental principles of the Federal form of Government. There are some who believe, for reasons of their own, that Unification would be better than any Federation, but even these people know that **as long as the Federal form of Government is retained** it is **essential** that **both** the **Federal Parliament** and the **State Parliament** should be left **supreme within the domain allotted to each.**

DICTATING TERMS TO THE STATES WHILE REFUSING THE RESPONSIBILITY.

The taking over of the State Railways with all their responsibilities, however reckless and unwise, might conceivably be consistent with some kind of federation. But to assume the power of dictating **the terms upon which the railways are to be run,** while leaving **the State to carry all the financial and other responsibilities** involved, is consistent neither with the principle of federation nor of common-sense. No matter what views they hold as to the extent of the authority which the central authority ought to possess, all sensible men will say, **if you take the power you must take the responsibility. The two must go together.**

It seems unnecessary to dwell at length upon this obvious truth, but one or two practical results may be noticed. It is generally recognised that **the careful management of finance is the basis of good government.** Parliaments can rarely refuse claims involving expenditure when money is plentiful, or where the responsibility of finding the wherewithal is not an immediate condition of expenditure. The only safeguard of public finance lies in the fact that the Parliament which authorizes new expenditure has ultimately to find the money. Except where there is a continually swelling revenue, it has **to find the money either by depriving its electors of the benefit of existing expenditure or by imposing some fresh tax, or by both.**

DESTROYS PARLIAMENTARY RESPONSIBILITY.

We have often seen how weak and ineffectual our safeguards become in periods of inflation, when the necessity of finding ways and means is

not immediately and directly connected with the expenditure; hence the succession of hot and cold fits which form such distinctive features of Australian finance. But when you not only postpone the period at which the bill has to be met, but also **enable one Parliament to draw promissory notes which have to be met by another Parliament,** what becomes of the safeguard? It is inconceivable that within the whole range of modern government such a proposition has ever before been seriously put forward.

INCONCEIVABLE TO REASONABLE MEN.

WHAT WOULD FOLLOW.

It requires little political experience, and little exercise of the imagination, to see what would follow. We should have Federal members and candidates for the Federal Parliament subjected to the demands of the State railway servants for higher wages and more costly conditions of working, and undeterred by any sense of financial obligation for the future. **To enable Federal members or candidates to draw political bills on the State Parliaments** is a scheme which might find fitting place in one of the musical comedies of Gilbert and Sullivan, but as a serious proposition for maintaining the Federal balance in the Australian Constitution it cannot and will not appeal to the common-sense of the people.

THE COMEDY OF IT ALL.

ITS EFFECT ON RAILWAY MANAGEMENT.

Then the matter should be considered from the point of view of those who are charged with the actual management of our great railway systems. **In Australia we are trying a grave experiment : the direct control of large railway services by elective Parliaments.** So far, in every State of the Union, the experiment has been successful. If success is to continue, **the Parliament in each State must continue to be the master of its own service. This proposal threatens,** not only the satisfactory working and future of the Railways, **but the financial stability of the States** that own them.

ENDANGER THE WHOLE FABRIC OF GOVERNMENT.

It is not too much to say that, under such conditions, the system of State railway management which Australia believes in, and is justly proud of, could not long continue. The strength of a bridge is the strength of its weakest girder, and if a **breaking strain is put upon State finance,** both State and Federal would be subject in all its parts to stresses which have not entered into the calculations of the constructing engineers.

LANDS THE FEDERATION WITH THE ULTIMATE RESPONSIBILITY.

One thing is certain: any re-adjustment of Federal relations **giving to the Federal authority power to determine conditions of employment on State Railways will ultimately load the Federation with the responsibility** of carrying on and financing those railways. It will be well worth while, even for those who think that the railways should be taken over by the Federal Parliament, to consider whether it would not be wise to approach such a momentous change in a direct way, to meet the difficulties and risks of such a transaction face to face, rather than be drawn by a by-path into a position which would render that change necessary and inevitable before proper provision had been made for meeting it.

BETTER FACE THIS RESPONSIBILITY DIRECT.

So much for public interest. **What about the railway men themselves?** Are they quite certain that this change would be for their permanent benefit? On this point the advice of Mr. McGowen, head of the New South Wales Labour Ministry, and himself a railway man, given when the proposal was previously before the country, is worthy of consideration. He said:—

MR. McGOWEN ON THE FINAL RESULT.

> "With the six States remaining as now, where one State had better wages than others there was a spirit of friendly emulation amongst the other five, but where they had only the centralized authority, a kind of medium would be struck, and there would be in reality a levelling down for some of the States."

The railway men are not merely employés of the States; they are citizens of Australia. As such they may well ponder over this advice, and think twice and three times before they accept an apparent benefit **at the cost of permanently dislocating the machinery of their country's Government,** and perhaps of permanently affecting detrimentally their own future.

No. 5.—TRUSTS.

PROPOSED AMENDMENT (NEW SUB-SECTION).

Section 51.—(xl.) Trusts, combinations, and monopolies in relation to the production, manufacture, or supply of goods, or the supply of services.

CLEARING THE GROUND.

Judging by the line of argument so far employed by the advocates of this proposal, it is clear that a systematic effort will be made to impose upon the very natural apprehension of the public regarding Trusts and Combines, and to wantonly misrepresent the attitude of the Liberal Party in relation thereto. It is, therefore, essential that the problem to be faced should be plainly set out, and the Liberal attitude clearly defined.

THE LIBERAL ATTITUDE.

Liberalism holds it imperative that **Trusts should be controlled and regulated so as to prevent exploitation of the public.** It is willing and eager to assist in any steps necessary to this end. Speaking for the whole party, the then Leader, Mr. Deakin, stated in the House, when dealing with the 1911 proposals, and repeating the same assurance in 1912, that **the Opposition was willing to assist the Government** in securing "whatever power may be necessary to enable this Parliament to deal at once in the most thorough and complete manner with Trusts and Combines." It contended, however, that a distinction should be observed between combinations acting in restraint of trade and those which conduct their operations without injury to the public. In conformity with this view, the Opposition amendment read:—

> "Combines and Monopolies **in restraint of trade,** commerce, or manufacture in any part of a State or the Commonwealth."

GOVERNMENT REJECT REASONABLE AMENDMENT.

That amendment was rejected by the present Government. Had it been presented to the electors in 1911, with the full indorsement of both parties, and would, under such happy circumstances, undoubtedly **have become law two years ago.** The powers now sought go far beyond that proposal in that they bring legitimate business undertakings, serving the public and injuring no one, into the same class as predatory organizations that levy toll upon the public.

POWERS WE POSSESS.

The advocates of this proposal picture the Commonwealth as defenceless against the depredations of the Trusts, while, in fact, there is, under the existing Constitution (Trade and Commerce power) full authority to deal with Trusts and Combines operating beyond the limits of a single State. Similarly, there is full power to each State to deal with all Trusts, Combines, and Monopolies within its borders.

GOVERNMENT PARALYSIS.

The power is there, but the present Government has allowed it to lie unused. In view of the loud and frequent affirmations that Trusts abound on every side, it is pertinent and instructive to ask **why the Fisher Government has refrained from ever using the power it already possesses.** It has persistently allowed the law already upon the Statute-book to remain idle and inoperative. The statement has been made—not lacking in temerity—that, by means of the Coal Vend case, the Government tried the law, and found it impotent. No statement could be more void of truth.

The prosecution against the Coal Vend was prepared by the Deakin-Cook Government, thus affording a sufficient proof of its attitude towards Trusts. Nor is the statement, that the result of that case proved the insufficiency of the Federal power, one whit more accurate. The prosecution, under the Anti-Trust Act of 1906, was subject to an obligation to prove that an offending Trust was guilty of "intent" to injure the public. **The decision of the Court was, not that the Federal authority had no power to deal with Trusts, nor that the law was unconstitutional, but simply that, on the evidence, the Crown had failed to prove "intent."** Chief Justice Griffith, in giving the Court's decision, said :—

WHAT THE CHIEF JUSTICE SAYS.

> "**We are, therefore, bound to decide the case upon the evidence,** and upon that evidence we are of opinion that the Crown has failed to prove any intent on the part of the appellants to cause detriment to the public."

Even if the Constitutional amendments now proposed had been in operation, they would not have affected the result of that case. It was not the Constitution that failed ; it was not the law that failed ; it was the Government that failed to produce the proof of "intent."

The Government knew of the weakness of the 1906 Act ; it proclaimed and removed it by the Act which it introduced in 1910.

Speaking on that measure, Mr. Hughes said :— TWO IMPORTANT ADMISSIONS.

> "I have said, over and over again, that whilst I am perfectly content to give anti-trust legislation a trial, I do not believe that it can be effective. Those who approve of such legislation, and the country generally, **are entitled, however, to demand for it a fair trial, and so far they have not had it.** The legislation, as it now exists, does not give the people an opportunity to deal with combines, owing to the fact that it is necessary to prove intent to restrain trade and detriment to the public, **both of which are extremely difficult, if not impossible, of proof.**"

That declaration was repeated by other members of the Ministry. It is important in two particulars. It proves that the Government recognised it would be "difficult, if not impossible," to succeed under the 1906 Act ; and, further, that the people had a right to expect that the existing power should be thoroughly tested before other means were resorted to. In view of this, **an explanation is necessary as to why the Government proceeded under the Act under which they declared success to be impossible,** and left untouched and unenforced the Act which they themselves introduced, and which was designed to meet the very point upon which the earlier measure failed.

A FAIR TRIAL WANTED.

Further, Mr. Hughes has admitted that the people are entitled to demand that a "fair trial" shall be accorded anti-trust legislation. He stated then (1910) that so far that opportunity had not been accorded. The position remains the same to-day. **The 1910 Act has never been employed,** and for this failure the Government alone is responsible. It is pertinent to ask why the Government which introduced and passed that measure failed to enforce it ? The only conceivable answer is that **they feared it would prove adequate,** and, by demonstrating the sufficiency of the existing power, disclose the wantonness of the present demand for an enlargement of the Constitution.

WHAT IS BEING DONE ELSEWHERE.

That this Act has been allowed to remain a dead letter is the more remarkable in view of the fact that **similar legislation in the United States has been successfully invoked.** There is no warrant for the statement that the law there has failed, and that the Courts are impotent. Several big Trusts have been dissolved, or compelled to cease their illegal practices, as a result of public prosecutions.

WHAT SHOULD BE DONE.

These prosecutions have not only proved the potency of the law, but have revealed **methods by which the law can be rendered still more effective.** One of these suggestions is that full publicity of the affairs of large aggregations of capital should be enforced. Another, that such concerns should only be allowed to operate when licensed so to do. The conditions of the licence would amply protect the interests of the public, and would stipulate, among other things, what corporations should be permitted and under what conditions, and would prohibit any resort to unfair competition. Violation of any of the conditions would involve cancellation of the licence, and thus compel the offending corporation to close its doors.

In Canada similar legislation has been invoked, with similar results.

In all these instances "restraint of trade," and consequent injury to the public, was an essential condition, a condition **ignored in the amendment now proposed.**

The power of the Commonwealth is as full and far-reaching as that of the Great Republic or the sister Dominion. It only needs to be set in motion. Until it has been demonstrated that a power which is effective in those countries is impotent here, **there is no justification for discarding it** as insufficient, and **no warrant for expanding it** by a Constitutional amendment.

No. 6.—NATIONALIZATION OF MONOPOLIES.

PROPOSED AMENDMENT (NEW SECTION).

"Section 51A.—(1.) When each House of the Parliament, in the same session, has by Resolution, passed by an absolute majority of its members, declared that the industry or business of producing, manufacturing, or supplying any specified services, is the subject of a monopoly, the Parliament shall have power to make laws for carrying on the industry or business by or under the control of the Commonwealth, and acquiring for that purpose on just terms any property used in connexion with the industry or business.

(2.) This section shall not apply to any industry or business conducted or carried on by the Government of a State or any public authority constituted under a State."

The proposal submitted under the title of "Nationalization of Monopolies" is, fortunately, free from complexity. There is no room for doubt or argument as to what is intended. It is as simple as it is dangerous.

SEPARATELY REJECTED AT THE LAST REFERENDA.

In an effort to minimize the crushing emphasis of the nation's verdict on the occasion of the last Referenda, it has been alleged that the people did not understand the questions. Leaving untouched the arrogant insolence of such an accusation, it certainly had no justification so far as this particular amendment is concerned. It is a **simple proposition to empower the Federal Parliament to take over or start as a Government concern any business it likes.** It was submitted by itself; it stood by itself; and it was rejected by itself. By an overwhelming majority the people declined to allow any temporary majority in Parliament to launch them on a wild orgie of Socialistic experiments. It is impossible to believe that in a few short months they have changed the safe and mature judgment they then recorded.

THE TERM "MONOPOLY" MAY COVER ALL BUSINESSES AND ALL EMPLOYMENT.

Although cited as the Nationalization of Monopolies, it will, if approved by the people, enable the Parliament to nationalize not merely what are popularly regarded as Monopolies, but in fact any business or industry, undertaking or service, which Parliament may desire to nationalize. Any business that Parliament sees fit to declare a "Monopoly" will, without any appeal to the Courts, be brought within the operation of this law. Its advocates, urging its adoption, seek to strengthen their case by representing it as applying only to mammoth and predatory Trusts and Combines. They will carefully refrain from pointing out that by a mere resolution of Parliament, it will be made equally applicable to every one of the small and quite legitimate businesses of the country, from the farm to the factory, from the workshop to the warehouse. There is absolutely no limitation. A majority in Parliament could, if this amendment be granted, **nationalize anything it liked** in the whole realms of industry, production, manufacture, or the supply of services.

WHAT THE WORD "MONOPOLY" REALLY INCLUDES.

In the absence of any definition of what constitutes a "Monopoly" it is instructive to recall the various businesses which have been denounced in Parliament as coming under this head. Mr. Hughes has declared that the vast majority of things we eat and drink and wear are the subjects of monopolies, while the following businesses have been similarly branded in Parliament, namely—those dealing with land, mines, iron, oil, bricks, tobacco, confectionery, trucks, manures, certain lines of dairy produce, shoe machinery, photographic material, flour, wheat, meat, jam, dried fruits, timber, proprietary articles, galvanized iron, bread, fish, fuel, leather, sugar, shipping freights. This list, by no means exhaustive, indicates the wide range of subjects to which Parliament, as at present constituted, might seek to apply the power of nationalization. In a word, the proposal, if adopted, will pave the way for the introduction and adoption of **that Socialism which is the admitted and proclaimed objective of the Labour Party.**

NATIONALIZATION SUPERFLUOUS FOR PURPOSES OF CONTROLLING TRUSTS, ETC.

It must not be overlooked that the power sought under this proposal is not a power of control, regulation, or suppression. That power is covered by the Trust Bill (No. 5).

This sixth proposal is, therefore, in no way necessary to or associated with the proper regulation or suppression of Trusts. Its purpose is simply to secure the authority necessary to enable Parliament to nationalize the industries of the country.

Further, it must be noted that there is no provision for discriminating between those industries carried on in a way beneficial to the community and those conducted to the public injury. That even the biggest aggregations of capital may carry on their operations to public advantage is admitted.

THE COAL VEND BLESSED BY LABOUR.

Mr. Hughes and many other prominent Labour Leaders not long since declared that the Coal Vend was a public blessing, securing the cessation of cut-throat competition, and insuring fair wages and improved conditions to the miners. That gentleman, indeed, declared that only the troglodyte would seek to destroy the modern Trust. Surely, then, an effort should be made to discriminate between those combinations which benefit and those which harm the general community. But every business and industry, good or bad, beneficial or injurious, big or little, is brought under the menace of this proposal. Each is alike liable to be taken over by the Commonwealth on a mere resolution of Parliament.

WHY NOT TRUST THE ELECTORS?

It may and will be urged that Parliament, being elected by and responsible to the electors, is not likely to act otherwise than in accordance with their wishes. This argument embodies the dangerous fallacy of the half-truth. If it was secured that the people themselves should be consulted before steps were taken to nationalize any particular business, much of the objection to the proposal would disappear. But the whole matter, the sole determination, is to be left to Parliament, though no more unsuitable tribunal for such a purpose can be conceived. Parliament is elected upon political issues, and, generally speaking, upon party lines, while a proposal to resume an industry or commercial concern and run it as a Government undertaking is essentially a business proposition. There is no obligation upon Parliament to consult the electors before proceeding to the work of socializing the industries of the country. Elected upon quite other issues, it could indulge in wholesale nationalization, and pretend to justify its action on the ground that the electors, by giving it the power to nationalize, clearly intended that power to be used. It will probably be replied that, even if this be so, if Parliament makes

a mistake, misjudges the public desire, or concludes a bad or foolish bargain, the electors will punish it in due course. But this will not remedy the evil or correct the mistake. Once a business has been nationalized, once private enterprise in any given direction has been banished from the field, there is no other course open for the Commonwealth than to continue to carry on its new undertaking, no matter how bad a bargain it may represent, or how serious a loss it may entail.

PEOPLE OR POLITICIANS.

This claim for power is put forward with the cry "Trust the people"; but it will be seen that those who use this phrase have been careful to shut out all guarantees that the people shall ever be consulted, or that the exercise of the power shall rest with them. It is simply **an attempt to compel the people to trust the Parliament.**

The contention that Parliament will not act foolishly, that it may always be relied upon to faithfully and wisely conserve the public interest, may be tested in two ways: First, by electors calling upon their own experience and judgment, by asking if, at all times, Parliament has shown itself alert to, and capable of, properly husbanding the taxpayers' money, and of efficiently managing the people's business? Secondly, by a reference to the Sugar Industry. No member of the Labour Party who has spoken on the subject has expressed himself as otherwise than in favour of the nationalization of the business of sugar refinery. *Hansard* is full of declarations in support of such a course, while motions approving of it, and evidently carrying undivided labour sympathy, have from time to time been placed on the business-paper of both Houses. It is safe to assert that if the constitutional power now sought had been existent, the Labour Party would have taken the necessary steps to nationalize this business, so general and so pronounced has been the declared opinion in favour of such a course. Yet a public inquiry conducted by a Royal Commission has resulted in a finding, distinct and emphatic, that **nationalization in this case would result in inefficiency and consequent heavy financial loss** to the general taxpayer.

A GOVERNMENT COMMISSION DENOUNCES NATIONALIZATION.

Here is clear proof that the judgment of Parliament, moved as it necessarily is by political considerations, impelled by party platforms, driven by party forces, would have launched the country into an undertaking which public inquiry has shown would result disastrously both to the industry itself and to the community. And it must not be overlooked

that the members of the Commission were chosen by the Labour Government itself. It certainly cannot be accused of any antipathy to the Labour Party and its ideals. Two out of its five members were pledged by the decision of the Hobart Labour Conference to nationalize this industry; a third has openly declared his sympathy with Labour ideals. Yet so overwhelming was the evidence that no other course was open but for it to declare that **nationalization would spell public loss.**

WILL THE PEOPLE PROFIT?

The simple question for the electors to determine, therefore, is whether they are prepared to give Parliament a free hand to launch out into a wholesale and reckless nationalization of the country's industries. They will obtain some guidance from what is going on around them. In all the States there are instances of nationalization. Can it be honestly said that they are entirely satisfactory? Are the public satisfied? Are the State servants contented? Convincing answers abound on every side.

WIN OR LOSE, THE ELECTORS PAY.

Yet in all these instances the task involved is simple, as compared with the hundred and one complex factors which will present themselves whenever the Government enters into the business of producing or manufacturing for the whole of the people.

In this connexion, it is all-important to remember that **any loss or deficiency in any public undertaking must always be borne by the taxpayers.** It cannot be avoided and it cannot be terminated. Once private enterprise in any calling has been banished, and the State has taken its place, it is practically impossible to undo the mistake and restore the old order of things. It will help to a safe answer on this proposal if the electors keep plainly before them that it is their money which will be at stake and not that of the members of Parliament, who are so anxious to experiment with it.

NATIONALIZATION THE PENALTY OF SUCCESS.

What are the businesses likely to attract the attention of a Parliament bent on Socialistic experiments? It is generally assumed that it is the big concerns which will be first taken over. This is probably correct. A big concern means a successful concern—one that has been built up by tireless energy and accomplished skill—and its reward is to be nationalization. The knowledge that this fate is hanging in terrorem over successful undertakings can only exercise a depressing

and deterrent effect upon enterprise generally. The great stimulus to enterprise is security. But, if this proposal is adopted, security will vanish, and apprehension take its place, for no one will know at what moment the Government may decide to take from him the business built up by years of constant labour and ceaseless care.

NO GUARANTEE OF FAIR COMPENSATION.

This perpetual anxiety must be intensified by the **absence of any guarantee of fair compensation** for any business resumed. It is true the measure provides for the acquisition on "just terms" of any "property" used in connexion with the industry or business taken over. Much stress will be laid on the use of the words "just terms," but it will be noted they apply only to actual property, namely, plant and premises taken over. They do not, and it is evidently intended that they should not, include "good-will." Yet, in the case of any well-established business, "good-will" is a real and tangible asset. There is no instance in any British community where hitherto this has been ignored whenever a Government has taken over the property of private citizens. It has been left to the Labour Party to carry through an English-speaking Parliament a measure appropriating private property without compensation.

COMMONWEALTH LIABILITY TO TAKE OVER BAD BARGAINS.

While it is probable that the attention of Socialists will be first directed to the successful business concerns, there is a danger in quite an opposite direction, namely, that influences may be employed to prevail upon Parliament to take over quite doubtful or unprofitable concerns. The danger is there; the argument needs no elaboration.

A PARALYZING INFLUENCE.

But whether Parliament proceeds to use the powers now sought with the purest of motives, whether it commits honest mistakes, or whether, on occasion, it yields to sinister influences, the same effect will be observable—a feeling of nervous apprehension, no one knowing what the morrow holds in store for him.

PROHIBITION OF PRIVATE BUSINESS.

Not only will this power, if granted, enable Parliament to take over or start any or every business or undertaking, but it will equally **empower it to shut up any private concerns or enterprises** which may come into competition with it. The effect of this proposal is, therefore, not merely to authorize governmental enterprises, but to discourage, to absolutely prohibit, private ones.

AUSTRALIA'S NEED.

In a country such as Australia, where golden opportunity, like the sleeping princess, awaits but the kiss of enterprise to stir it to life and activity, where rich resources stretch out inviting arms to the energy needed to bring them to man's use and the nation's up-building, surely the call to the State is to encourage and aid, not to retard and intimidate, that individual and co-operative effort which world-wide history reveals as the great compelling forces of progressive civilization.

FINALE.

FULL EXPLANATION IMPOSSIBLE.

The foregoing represents **only an outline** of the case against the proposed amendments. To examine any one of them fully has been impossible. To take by itself either the "Trade and Commerce," or the "Industrial," or the "Trusts and Combines," or the "Nationalization" Power, explaining each as it ought to be explained, would have required more space than has been allowed for the whole series.

INFORMATION INCOMPLETE.

Unless this is recognised and constantly kept in mind, the public will be misled. No matter with what attention they follow the two expositions here printed, they will still be left in the dark on many material points. The electors are compelled to vote upon a series of issues of transcendent importance, upon no one of which can their knowledge be made quite complete by this means.

HOW CRITICISM HAS BEEN CRIPPLED.

This plain statement, well founded as it is, will not be appreciated in its full force unless the facts are steadily kept in mind. Even the leaders of the legal profession are constantly obliged to speak conditionally and in terms accompanied by confessions of doubt as to the scope of even the best interpretations of these vague endowments of powers. Under a pretence of seeking brevity, the amendments have been framed in words so general as to be dangerous. The electors are being invited to vote blindfolded—to take leaps in the dark.

UNIFICATION.

Put into plain words, these amendments mean that the Federal Government, if Labour gets its way in the Referendum, will be enabled to become **master of all the businesses in Australia** and employ every person connected with them on terms fixed by its Parliament. The result would be that everybody would ultimately be a public servant dependent upon the Government which would be at the head of a universal Public Service.

DESPOTISM AT HAND.

The Government of the day would be empowered—

to buy and sell everything;
to fix prices, profits, and rents;
to come to own all property;
to give all employment to any persons it pleased; and
to refuse employment to any persons whom it might wish to punish.

NATIONALIZATION.

It is needless to explain **the futility of such a project as that of "nationalizing"** all the modes by which men now earn a living, the impossibility of equitably departmentalizing every trading or commercial business, of brigading a whole people, of controlling and providing for them, and especially of financing them. That futility must be perfectly plain to those who will reflect for a moment upon the unchallengeable fact that this is the **avowed official policy of the Caucus,** to which it is pledged, and upon which it stakes itself for the forthcoming election.

GOVERNMENT MONOPOLIES.

In vain have Ministerialists invoked the world's experience of social experiments with Government monopolies. Not one is truly successful. **The long list of failures speaks for itself.**

THE PARAGUAY PARADISE.

So far as Australia is concerned, its Socialistic settlement in Paraguay, resulting speedily in starvation and bankruptcy, tells its plain tale to all the world. The present Caucus project is to treat the whole of this Continent in the same fashion and on the same principles as were applied so disastrously in Paraguay. A Socialistic Government so constituted would pose and preside as our Dictator, while living upon the captured earnings and savings of the whole people, until finally the bubble project bursting plunges all concerned into inevitable disaster.

NATIONAL PARLIAMENT OVERWEIGHTED.

By far the greater part of the annexed powers could not be exercised except very spasmodically and partially in the National Chamber. Its members will always have much greater issues before them. Even when they make an attempt to deal with burning local needs, remedial action must always drift hopelessly away in sessional arrears.

ANOTHER ATTACK ON THE CONSTITUTION.

No more unpractical, unbusiness-like, and **undemo-cratic attack upon our Federal Constitution** could have been made. Apparently it is **prompted by hostility to all our local Legislatures,** and also to distract attention from the blunders we have already made even in Federal legislation upon Federal affairs. The Parliamentary attempts to corner or evade the Constitution having failed, our National Charter is now sought to be revolutionized out of hand.

OUR CONSTITUTION.

The **Constitution** of a country is the **charter of its liberties, the rule of its authorities,** and the **bond of its**

union. In such an instrument there should be no room for equivocation or concealment, no doubt as to its scope and functions, no openings for abuses of its great powers.

THE CONSTITUTION SOUGHT TO BE FORCED UPON US.

Unhappily that is not the character of the Constitution which Australia will obtain if these amendments are forced upon our people. Instead of bettering our instrument of government by clear definitions and liberal developments, Ministers are striving for amendments which will leave it **far more in doubt and far more uncertain** in its operation than it is to-day. For one aspect that is clarified several more obscure and dangerous are left uncharted.

TRUE CONSTITUTIONAL GROWTH.

Liberals are prepared to frame and support the amendments of the Constitution already offered by their leaders. To make these amendments has been and will continue to be the aim of all Liberals. They will be added to as experience proves their need. But each and all of them will be indisputably **fair in purpose and frank in expression.** Every one will realize just what they mean and just what they will do. In this way, and in this way only, can the principles of Democracy be given full effect.

A STRAIGHT VOTE PLEADED FOR.

On this greatest of all political issues, straightforward relations should be established between the people and their representatives so that every vote cast may be given on the merits of each question—given, too, apart from party prejudice or personal interest and for the achievement, not of class ambitions or animosities, but of high national ends.

WHY ELECTORS SHOULD VOTE "NO."

The proposed Constitutional amendments now before you violate sound principles of construction, destroy self-government, defy definition, and absolutely nullify the Federal character of our Constitution. The electors are counselled to meet them in their present more dangerous form as they met and disposed of them on the last occasion, with a clear, conscientious, deliberate, and final "NO."

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